

## CHAPTER XV

### RETIREMENT OF CANDIDATES

The law.

A rather novel and unusual provision was introduced in the electoral law by the amending Act of 1956 according to which a candidate has a right to "retire" from the contest at any time upto 10 days before the date of commencement of the poll. Under the old law a contesting candidate had no such right to "retire". A candidate whose nomination paper had been found to be valid could only withdraw his candidature upto the last day fixed for such withdrawals. This right to withdraw still remains. The candidates who have not thus withdrawn are known as contesting candidates. Under section 55A of the amended Act, a contesting candidate has now been given the right to 'retire' from the contest on any day not later than 10 days before the date of poll in the constituency, or, where there are more polling days than one in the constituency, not later than ten days before the first of the dates fixed for the poll.

A candidate may retire from contest by delivering a notice in the prescribed form to the Returning Officer or to any of his Assistant Returning Officers between 11 a.m. and 3 p.m. on any day within the prescribed time limit. Only the candidate in person or an agent duly authorised by him in writing for the purpose is entitled to deliver the notice of retirement. A notice of retirement is invalid and is of no effect if—

- (i) it has been delivered less than 10 days before the commencement of the poll; or
- (ii) it has not been signed by the candidate himself; or
- (iii) it has been delivered to any person other than the Returning Officer or any of the Assistant Returning Officers; or
- (iv) it has been delivered at any hour other than between 11 a.m. and 3 p.m. on any day; or
- (v) it has not been delivered by the candidate in person or by his agent duly authorised in writing to do so.

If a candidate has validly retired in accordance with the prescribed procedure, the Returning Officer is required to give publicity to the fact of such retirement by—

- (a) affixing a copy of the notice to the notice board in his office;

- (b) supplying a copy of the notice to each of the remaining contesting candidates or his election agent; and
- (c) publishing the notice in the official gazette (the Gazette of India for elections to the House of the People and the State Gazette for elections to the Legislative Assembly of the State).

A candidate who has validly retired from contest ceases to be a candidate thereafter and cannot cancel his retirement and continue to remain a candidate.

The Election Commission has prescribed certain safeguards to cover cases in which the Returning Officer does not personally know the candidates and their authorised agents. There is a risk of impersonation in such cases in connection with the presentation of the notice of retirement. In fact, a case actually occurred in the Raipur District of Madhya Pradesh in which the Election Tribunal decided that there had been impersonation in the presentation of the notice of retirement by a candidate. As a result, the retirement was held to be invalid and the election of the returned candidate was declared void. If the provision for the retirement of candidates is not deleted as recommended hereafter by the Commission, an amendment of the law appears necessary requiring that if the person presenting a notice of retirement is not personally known to the Returning Officer, he must be identified before the Returning Officer by some one personally known to the latter. A similar amendment may also be made in respect of notices of withdrawal of candidatures under section 37 of the Representation of the People Act, 1951.

Immediately after symbols have been allotted to the contesting candidates, the Returning Officer has to arrange for the printing of the postal ballot papers in the prescribed form. Postal ballot papers are required to be sent by registered post as early as possible to the voters entitled to vote by post. Ordinary ballot papers also have to be printed at that stage if the poll is to take place in accordance with the marking system of voting. In view of this, the provision of the law allowing contesting candidates to retire until a much later stage gives rise to serious practical and administrative difficulties. Instances have occurred where contesting candidates retired after the postal ballot papers containing their names had been despatched to the electors entitled to vote by post. These ballot papers cannot be recalled and votes recorded by electors in favour of any of the retired candidates were necessarily wasted.

A total of 75 candidates at elections in Parliamentary constituencies and 617 candidates at elections in Assembly constituencies retired from contest.

The party-wise break-up of the candidates who retired from contest in the general elections of 1957 is as follows :—

Name of the Party			Elections in Parliamentary constituencies	Elections in Assembly constituen- cies	
The Indian National Congress	..	..	—	7	
The Praja Socialist Party	..	..	5	27	
The Communist Party of India	..	..	1	10	
The All India Bhartiya Jan Sangh	..	..	3	30	
Other Parties and Independents	..	..	66	543	
			TOTAL	75	617

Detailed information in respect of retirements has been tabulated in the statements appended at the end of this chapter.

In a few cases, ballot boxes were allotted to a retired candidate and placed in certain polling stations due to the mistake of the presiding officers. All the ballot papers found in the ballot boxes of the retired candidates at the time of counting had necessarily to be rejected and these votes were wasted. As it happened, after considering the report of the Returning Officer, the Commission did not find it necessary in any of these cases to order a re-poll in any of these polling stations inasmuch as the difference of votes between the two top candidates was greater than the number of rejected votes polled in favour of the retired candidate. These incidents afford another proof of the scope created by this provision for confusion and mistakes on the part of the polling personnel, the polling agents of candidates and the voters.

It has been generally felt that the provision for retirement also leaves ample scope for abuse inasmuch as more time is available for manoeuvring by a candidate who may be inclined to extract a price from a rival candidate for retiring from the contest. An unfair and unwelcome feature of the matter is that even an honest candidate who has *bonafide* retired from the contest at once becomes subject to a suspicion that he has obtained a consideration for retiring.

Apart from this, the provision gives rise to many other serious administrative difficulties. Until 10 days before the commencement of the poll, no Returning Officer can be certain as to how many candidates would be ultimately left in the field for the poll. He cannot, therefore, form a correct estimate as to the number of ballot boxes or the varieties of symbols that he would have to supply to each polling station. Transport arrangements have as a consequence to be left fluid until a very late stage. If a candidate chooses to retire at the very last stage,

notices etc. containing the list of contesting candidates have to be amended at the eleventh hour. Instructions already given to the Presiding and Polling Officers have to be superseded or amended materially at a very short notice in the light of any retirements that may have taken place. All this cannot but cause confusion and result in mistakes.

From the point of view of the candidates and the voters also, the provisions of section 55A of the Act have resulted in practical inconvenience. A candidate naturally instructs his supporters amongst the electorate about the total number of ballot boxes which they would find in the polling compartment during the poll and the relative position of his own ballot box amongst them. As a result of retirements, these instructions become out of date and are likely to mislead the voters. The voters on their part also cannot but get confused when on the day of the poll they find a smaller number of ballot boxes in the polling compartment than what they had expected or been told about.

Under the new or "marking" system of voting, any retirement of contesting candidates cannot but cause much greater inconvenience. As in the case of postal ballot papers, the ordinary ballot papers have to be printed immediately after the last date fixed for withdrawals and the names and the symbols of the candidates who retire subsequent thereto cannot be omitted from the ballot papers and there is a risk of many votes being wasted at the poll as a result. Even if the names of the retired candidates could be scored out on the ballot papers, the same difficulties would be experienced by the candidates and voters as described in the preceding paragraph.

The Commission is of the opinion that the main object for which section 55A of the Representation of the People Act, 1951, was inserted by the amending Act has not been achieved. No doubt in a very few cases, the retirement of some contesting candidates resulted in uncontested elections and avoided the actual holding of a poll. It may be reasonably argued, however, that if there has been no provision in law allowing the retirement of contesting candidates, the candidates who were not serious and ultimately retired would have mostly withdrawn their candidatures at an earlier stage and these very elections would have turned out to be uncontested in any case. Even assuming that the provision has yielded a few uncontested elections, it stands condemned in the Commission's opinion as it has merely created serious practical and administrative difficulties in the actual conduct of the poll in addition to giving rise to an even more objectionable feature, namely, widespread allegations—legitimate or otherwise—that one or the other of the remaining candidates took recourse to unfair or dishonest means in order to prevail upon these particular rival candidates to retire from the contest.

Recommendation.

From the point of view of the purity of elections and administrative considerations, the Commission strongly recommends in these circumstances that this provision should be deleted from the Statute Book at the earliest opportunity.

### NUMBER OF CANDIDATES WHO RETIRED

Sl. No.	Name of the State or Union Territory	Number of candidates who retired	
		House of the People	Legislative Assembly
1.	Andhra Pradesh	4	22
2.	Assam	—	5
3.	Bihar	6	56
4.	Bombay	7	74
5.	Kerala	2	17
6.	Madhya Pradesh	4	79
7.	Madras	12	97
8.	Mysore	2	28
9.	Orissa	—	9
10.	Punjab	7	75
11.	Rajasthan	19	84
12.	Uttar Pradesh	3	48
13.	West Bengal	3	23
14.	Delhi	3	—
15.	Himachal Pradesh	3	—
16.	Manipur	—	—
17.	Tripura	—	—
TOTAL		75	617

### STATEMENT OF UNCONTESTED ELECTIONS DUE TO RETIREMENT

#### A. House of the People

Sl. No.	Name of the State	Name of Constituency	Name of elected candidate	Party affiliation
1.	Andhra Pradesh	Rajampet	Shri T. N. Viswanatha Reddi	Congress
2.	Bihar	Sasaram	Shri Jagjiwan Ram	„
3.	Madras	Tiruchendur	Shri T. Ganapathy	„
4.	Mysore	Kolar	Shri Doddathimmiah	„

## B. Legislative Assemblies

Sl. No.	Name of the State	Name of Constituency	Name of elected candidate	Party affiliation
1.	Madhya Pradesh	Panagar	Shri Parmanand Mohanlal	Congress
2.	" "	Birendra-nagar	Smt. Rani Padmawati	"
3.	" "	Bichhia	Shri Baredi	"
4.	" "	Harsud	Shri Ram Singh Gobla	"
5.	" "	Sanchi	Shri Daulat Singh Raja	"
6.	" "	Masturi	Shri Ganeshram	"
7.	Madras	Killiyoor	Shri A. Nesamony	"
8.	"	Nambiyur	Shri K.L. Ramaswami	"
	Mysore	Karkal	Shri Ullal Manjappa	"