



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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With this thought, we hereby present to you

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PARTY SYMBOL: THE REAL FACE OF POLITICAL PARTIES.

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Abstract.

India with a population of 136 crore people is regarded as the largest democracy of the world. The electronic voting machine or EVM is regarded as the backbone of electoral arrangement in India. India has been continuously witnessing some or other form of electoral corruption in the election process. For lowering down corrupt practices a petition was filed for replacement of party symbol with name, age, educational qualification and photograph of the candidate. The removal of symbol will make it difficult for poor and rural people to participation in election process. The replacement has various difficulties attached to it for election commission, candidates, political parties and voters. All this will harm the basic spirit of democracy in the country. For checking illegal practices Election commission, voters, political parties and candidates needs to work in a unified manner for making the whole election process unbiased, free and fair.

Key Words: *Electronic Voting Machine, Corruption, Election Symbol, Educational qualification, ideology, Equality, Illiteracy, Rural, BPL, Reforms.*

General Introduction.

Elections form the base for democratic arrangement of a country. The process of election involves casting of votes by a large mass of people to choose an ideal candidate with best attributes in governance of country, nation and society. Elections are the means through which people participate in the decision-making process of the country. These elections are regarded as a method of representation of 'general will' of common people. An election decides the leadership of the country. A free and fair elections are regarded as the most essential part of good governance

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mechanism. The 'right to participate' in elections is regarded as a fundamental human right available to every human. International documents like Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, European Convention on Human Rights and Charter of Organization of American States declares 'voting right' as a basic right that guarantees people's saying in government. Different constitutions of world contain specific provisions in regard to conduct of elections and considers voting as a fundamental right available with the citizens of the country. Judicial decisions by a series of courts have marked 'right to vote' as a part of freedom of expression through which citizens express their choice of representative. An election is regarded as a medium through government understand the demands of people. However a major problem relating to conduct of election in a country is that of electoral corruption which involves use of unfair and illegal means for winning the election.

The history of elections dates back to 17th century when an elected government was formed in Europe and North America. Different nations have different electoral arrangements in terms of minimum age of participation, compulsory voting regulations, use of paper ballots, foreign voter's involvement etc for smooth functioning of election process. At different levels elections are held in all the countries of the world to choose public officers for policy formation and welfare of people. Every nation aims for a transparent election with maximum participation of people. The process of elections is a complex process that involves limiting of constituencies, filing of nomination, campaigning, polls and lastly declaration of results. In whole of the process of election one of the most important ingredient is a 'political party' that represents an ideology, mindset and a common opinion. Political parties can be defined as an assembly of people with similar goals to be achieved. The members of these parties contest in elections for bringing in reforms and development of the country. Majority of countries of the world follow multi-party system with different parties trying to influence people to vote for their candidate. Different nations have constituted specific legislations for governing the functioning of political parties. No elections are possible without involvement of political parties in it. Every political party has a unique name and symbol for their easy recognition. The parties all around the globe aims for welfare of people however the means of achieving the same is different for each party. Every political party has number of followers who vote for candidates belonging to that party for bringing the party in power. The party in power and party in opposition in a combined manner ensures independence and accountability of democracy in a country.

India's Political Arrangement.

India with a population of 136 crore people is regarded as the largest democracy of the world. The Representation of People's Act 1951 is the key legislation that provides for complete mechanism for registration of political parties, counting of votes, publication of results, declaration of assets and settlement of election disputes. As per section 62 of the act each individual whose name appears on electoral roll has a right to vote in elections. The Representation of People's Act contain specific provisions specifying the ground of disqualifications of members of parliament and state legislature. These grounds are: conviction in offences, involvement in corrupt practices, disloyalty, failure to lodge election expenses account, entering into governmental contracts and involvement in Government Company. The act contain specific provision in regard to corrupt practices and electoral offences³ for transparency in the electoral arrangement. Thus Representation of People's Act 1951 promotes free and fair election process in the country. India witnessed its first general election in the year 1951 with Shri Jawaharlal Nehru becoming the first prime minister of the country. Till date India has witnessed seventeen general elections recent being the 2019 election in which Shri Narendra Modi became the prime minister of the country. The Constitution of India declares India as a union of states⁴ with government functioning at central, state and local level. The parliament of India consists of two houses namely Lok-Sabha (Lower House) and Rajya Sabha (Upper House) with President as head of both houses. India has witnessed both single party rule and coalition rule of multiple parties forming the government. The concept of universal adult franchise and equality in voting forms the base for elections in country. Being the largest democracy with diverse cultures India has around 2628 political parties⁵ functioning at present as per the recent ECI data. The Constitution of India has specific provision for establishment of election commission that performs the work of registration and regulation of political parties. The election commission is the sole body responsible for conduct of fair elections in the country. Indian soil suffers from the defect of use of unfair means by candidates for winning the elections. These unfair means include corruption, use of state resources, booth capturing, deceptive campaigning, ballot-box stuffing and biasness in vote counting. Over-population, illiteracy and poverty are regarded as the biggest reasons for these malpractices in the electoral arrangement. To keep a check on the activities of political parties and candidates the election commission keeping in mind statutory provisions provide for measures such as disclosure of material information, use of

³ Representation of People's Act, 1951 (Act No. 43 of 1951), Part VII

⁴ The Constitution of India, art.1.

⁵ Amending Notification regarding Political Parties and their Symbol *available at* <https://eci.gov.in/candidate-political-parties/list-of-political-parties/> (last visited on November 5, 2020).

VVPAT etc in the election process. Further polling stations of each constituency have proper presiding officers containing complete details of voters participating in election. For transparency in vote a separate compartment containing EVM is made at all polling stations. And lastly the results are declared by election commission itself after counting of votes of each candidate participating in electoral process. The electronic voting machine or EVM is regarded as the backbone of electoral arrangement in India. The limitations and drawbacks attached to ballot paper in elections lead to introduction of EVM's in the year 1980. An Electronic Voting Machine consists of two Units first is Control Unit and second is Balloting Unit that are joined by a 5 meter cable⁶. The working of an EVM involves simply pressing of a button fixed in front of name and symbol of candidate contesting in elections. The light attached to an electronic voting machine is a proof of vote being recorded in the machine. Each individual is allowed to cast only one vote in an EVM. The first constituency to conduct elections through EVM was paravur in Kerala. After this different states adopted EVM's in their elections. The 2004 Lok- Sabha polls witnessed complete use of EVM's in the election process. The Representation of People's act allow the use of voting machines in elections⁷ by election commission. These electronic machines are regarded as easy to use, eco-friendly, cost- effective and convenient devices leading to transparency in the conduct of election process of the country. However different political parties are continuously questioning the 'credibility of vote count' in these electronic machines. Post 2014 saw a rise in political parties approaching courts for questioning different election results on the ground of defect in EVM's. The recent 2019 election saw a 100 percent use of VVPAT machines⁸ for better clarity in the election process.

India has been continuously witnessing some or other form of electoral corruption in the election process. These malpractices are complete against the basic spirit of democracy. Electoral corruption acts as a hurdle in conduct of 'free and fair' election. They reduce public trust and confidence of large mass of people in the election process of country. To deal with all such ill practices the election commission of India and Supreme Court are regarded as the key institutional arrangement working in the direction of reducing all such practices. Both election commission and Supreme Court work hand-in hand for bringing better reforms in the election process of the

⁶ Dr. A.V Nikam, Dr. P.C Shetiye, Dr. S.D Bhoite, "A Critical Study of Electronic Voting Machine (EVM): Utilization in Election Procedure." *International Journal of Trend in Scientific Research and Development* (2019).

⁷ The Representation of People's Act, 1950 (Act 43 of 1950) s.61.

⁸ "It will be all VVPAT in 2019 Lok Sabha polls: Election Commissioner Sunil Arora" *The Economic Times*, September 29, 2018 available at <https://economictimes.indiatimes.com/news/politics-and-nation/it-will-be-all-vvp-at-in-2019-lok-sabha-polls-election-commissioner-sunil-arora/articleshow/66010832.cms?from=mdr> (last visited on November 6, 2020).

country. In the direction of lowering down electoral corruption recently a PIL⁹ was filed by Advocate Ashwini Kumar in the Supreme Court for removal of party symbol from Electronic voting machines. The plea provided for replacement of party symbol with name, age, educational qualification and photograph of candidate for reducing corruption, criminalization, regionalism, favouritism and casteism in election process. The petition mentioned use of party symbol in electronic machines as against the basic spirit of Article 14, 15, 21, 325, 326 and preamble of the constitution. As per the contentions in application, the use of election symbols lead to supremacy of party politics over candidate's attribute leading to usage of 'muscle and money power' in elections. The present petition prayed for removal of party symbols for fairness in the election process with change in the electoral arrangement from party system to candidate centric voting. Lastly, the petition raised some serious questions over use of party symbols by mentioning statistical data depicting legislators with criminal charges involved in electoral arrangement. Thus petition initiated debates over relevance of symbols and how far removal of all such party symbols will prove fruitful in curbing corrupt practices in electoral framework.

The present research depicts the relevancy attached to party symbols in electoral process. The symbol of a political party is regarded as the identity of the party. With more than 2000 political parties in country these symbols are regarded as the easiest way of recognition of a political party. Each political party has a unique symbol allotted to them by election commission of India. These symbols are placed on EVM, billboards, placards and pamphlets for convenience and ease of voters in deciding their candidate. The party symbol in India are largely inspired by common use daily items regularly used in human life. Some of the common party symbols in country are:-lotus flower (Bhartiya Janta party), elephant (Bahujan Samaj party), hand (Indian National Congress), Clock (National Congress party), Cycle (Samajwadi party), arrow (Janata Dal), broom (Aam Aadmi party), bow and arrow (Shiv Sena), flower & grass (All India Trinamool Congress)¹⁰. Flags and symbols are prevalent in India since freedom movement. From the very first election in 1951 country has seen wide use of party symbols in election process. These symbols are seen as a convenient means for differentiating between different candidates representing different political parties. The party symbols are a medium through which political parties and their candidates communicate their ideology and promises to people at large. These use of symbol adds an

⁹ Writ Petition (Civil). No 1232 of 2020

¹⁰ Political Parties and Election Symbols *available at* <https://eci.gov.in/files/file/10381-political-parties-and-election-symbols/> (last visited on November 6, 2020).

advantage to candidate by attracting more and more voters with similar ideology to vote for them. All the members of a political party contest under same symbol of party for forming a stable government.

India has never witnessed any elections without the use of party symbols in the electoral process. The election commission of India holds the complete responsibility of allocation of symbols to political parties. The Constitution of India, Representation of People's Act 1951 and Conduct of Election Rules 1961 empowers ECI to allocate party symbols. The Election Symbol (Reservation and Allotment) Order 1968 govern the whole process of classification of symbols, allotment of symbols, conditions of recognition of party and notification of free symbols. The election commission maintains a pool of symbols from which each party or candidate has to give three preferences of symbol. The commission grants one symbol to a party/candidate and after such allocation the symbol gets freezed for such political party or candidate. No other party is allowed to use similar symbol once allotted to any party or candidate. All the candidates of national or state recognized parties shall be allotted similar party symbol reserved for that party. No candidate in any election is allowed to contest without a symbol. To all the independent candidates and unrecognized political parties the ECI shall grant any free symbol for their easy recognition to voters. Shri MS Sethi is regarded a key sketcher of election commission who has drafted major party symbols in India. He worked for forty long years with commission drawing hundreds of symbols that are still used in election process of the country. In case of dispute in election symbol the commission holds all the powers to pass any order after hearing of parties claiming symbol. All the decisions of ECI are a binding on all the parties.

The election commission of India holds complete responsibility of storage, disposal, safety, repairing, management and counting of electronic voting machines. Each EVM is prepared as per the design approved by ECI. These machines are placed in each constituency in a manner as prescribed by election commission. Each electronic voting machine contain names and symbols of sixteen candidates in an order of recognized national and state parties given top slots, then are placed candidates of other parties and on last are independent candidates. All these names are in an alphabetical order with an option of NOTA placed in every machine. The manual on EVM and VVPAT issued by election commission of India contains all minute details as to the working of electronic machines in the election process. The main reason behind use of name and symbol in EVM is to provide an ease of voting specially to illiterates, poor and rural population. The presence of symbols help in easy identification of candidates by people. The domination of party symbols

in Indian politics makes it necessary to use them in EVM's for simple recognition of parties and their candidates. Further the uniqueness of symbol allotted to each candidate helps in convenient differentiation leading to transparency and fairness in elections. The voting machines with party symbols makes the whole electoral process fast and efficient.

The plea for replacement of election symbol with name and educational qualification creates an inequality between voters who are rich and educated and those who live in rural areas and are poor with no educational qualification. This removal of symbol will make it difficult for these people to vote in election. Since first election in 1951 symbols are widely used on ballot papers for attracting more and more voters to participate in electoral process. In India around 313 million people are illiterate¹¹, 95, 00, 24, 608¹² people live in rural areas and 21.9%¹³ of population lives below poverty line. This removal of election symbols from voting machines is completely against the basic principle of equality as it makes a classification of people on the basis of economic status, educational qualification and social strata. Each voter has equal right to participate in election process of the country. Right to vote is a basic human right guaranteed by constitution of India that cannot be taken away by any means. The use of party symbol and name of candidate on EVM is keeping in mind the interest of large mass of people ensuring their maximum participation in the decision making process of the country. A removal of symbol will make it difficult for poor and rural people to participation in election process leading to concentration of votes in very few hands. All this will defeat the spirit of democracy in the country.

The replacement of symbol with name, educational qualification and age has large number of difficulties attached to it for election commission, candidates, political parties and voters. For election commission the replacement will create an additional burden of printing of all the information on each EVM with limited resources in hand. Each year India goes through some or other election in state or at local level. The printing of separate information of each candidate will be a complex task adding huge cost on election commission. Also there are chances of typing error as hundreds of candidates are involved in each election of the country. In regard to political party the symbol is regarded as the identity of party. Each party contest election under party symbol for forming the government. With removal of symbol a situation can arise where no party gets majority

¹¹ Tanushree Chandra, "Literacy in India: The Gender and Age Dimension", *ORF Issue Brief No. 322* (2019).

¹² Jal Jeevan Mission, "IMIS Reports-Rural Population" (Ministry of Jal Shakti).

¹³ Reserve Bank of India, "Handbook of Statistics on Indian States" (2019-2020).

mark defeating the whole purpose of election process. For candidates the symbol speaks about their ideology and promises. It is very difficult for candidates to reach personally to every voter so symbol acts as a medium of communication of promises. A removal of symbol will hamper the connection between candidates and voters. Lastly the voters will be at a great loss with removal of symbols from EVM's. For people symbols help them to trace the party or candidate of their own ideology. Replacement of symbol will lead to confusion in their minds regarding the candidate of their own ideology. Also there can be candidates with similar names making it difficult for general people to choose the right candidate. Further each constituency has large number of candidates so it will very difficult for people to remember names of all such candidates along with their promises made and then choose best candidate by looking at their names. Thus removal of symbols will have more disadvantages over benefits. It will lead to complexities and hardships completely defeating all the purposes of removal. Deciding a candidate by only looking at educational qualification and age without knowing the party, ideology and goals will lead to distrust in future.

The writ petition filed by Advocate Ashwini Kumar was for curbing the corrupt practices in the electoral process. However this removal of symbols is not the appropriate solution to lower down malpractices in elections. Rather it will create another problem of fake degrees being obtained by candidates for proving their better intellect. The election commission holds the complete responsibility of fair conduct of elections in the country and is bringing in new reforms in this direction. The commission has made compulsory disclosure of details of insolvency, age, citizenship, caste, office of profit and criminal record of each candidate contesting in election. For better accountability and transparency in the election process the commission can take another positive step by making available all this relevant information about candidate available to voters at large. With all this information being in public domain the voters will choose the best possible candidate with suitable attributes in the governance mechanism. In regard to political party the election commission provides for compulsory filing of contribution report, expenditure report and annual audit report by all the national and state recognized parties. Further it is political parties that hold complete moral responsibility to choose ideal candidates with appropriate skills to participate in electoral process. No party should allow people with criminal records to contest under their symbol in elections. Each party should fix a campaign amount to be utilized by each candidate for keeping a check on political corruption. The recent Bihar polls witnessed a new trend by plurals party though display of profession of each candidate participating in election. The

Supreme Court in *Public Interest Foundation v. Union of India*¹⁴ held that all the political parties needs compulsory disclosure of criminal records of all the candidates on their website. The candidates shall also declare antecedents in newspapers circulated in country. All this shows that political parties, courts and ECI are bringing in new reforms for lowering down criminalization of politics. A simple replacement of symbol will not transform the whole electoral arrangement of the country. The election commission, political parties and voters needs to work in a unified manner for controlling electoral problems making the whole election process unbiased, free and fair.

Conclusion.

Election and political parties play an important role in governance of the country. Democracy ensure people's participation in the decision making process of the country. Each individual has a constitutional freedom to choose their representative. India is termed as largest democracy of the world with governmental structure functioning at union, state and municipal level. Since first election India has faced electoral corruption in different forms for gaining power. These practices are regarded as hurdles in smooth working of electoral system of the country. From time to time election commission has brought in new guidelines and regulations for reducing criminalization, corruption, favoritism, casteism and regionalism in politics. It is the Election Commission of India that holds complete responsibility of conduct of electoral process in the country. The commission manages the working of electronic voting machines and also allocate symbols to parties and candidates. The Supreme Court in *Kanhiyala Omar v. R.K Trivedi*¹⁵ held that election commission holds complete authority in regard to allotment of symbols and recognition of parties under Election Symbol (Reservation and Allotment) order. The idea of elimination of symbol from EVM is not the appropriate solution to curb electoral corruption rather these symbols are useful in easy recognition by illiterates, poor and rural people. For checking the electoral malpractices election commission of India should take a new initiative of informing voters about candidates attributes. The right to information being a right available to all the citizens of the country it is the the commission that should make arrangement to provide complete information and details of assets, liabilities, criminal records, educational qualifications, age, and insolvency of all the candidates. The commission should also create awareness among people in regard to importance of voting. The election commission being the key institution in regard to election should keep a vigilant eye

¹⁴ (2019)3 SCC 224

¹⁵ 1986 AIR 111.

on election campaign and expenses of each candidate participating in election. The political parties hold complete responsibility to act in an ethical manner by giving chances to young individuals for efficiency in the decision making process. With all the relevant information available to people, use of symbols for easy recognition and a watch on activities of candidate there will be an effective and healthy democracy with complete transparency in the electoral process.

