

[23 August, 2004]

RAJYA SABHA

Commission of India has recently forwarded to the Government a set of 22 proposals on electoral reforms, the details of which have been made available for general information of the public by the Commission's Press Note No. ECI/PN/26/2004 dated 2.8.2004.

(c) and (d) The Government is committed to continuing the process of reform of electoral laws and shall consider the proposals of the Election Commission in this regard in proper perspective. The process of reform of electoral laws is, however, a continuous and ongoing process and can be carried out only through consensus among political parties, which is a time consuming process.

Ban on entry of criminals in politics

†2038. DR. MURLI MANOHAR JOSHI:
SHRI RAVI SHANKAR PRASAD:
SHRIMATI SAVITA SHARDA:

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether the Election Commission has requested Government to check the entry of criminals in politics;

(b) if so, the details thereof;

(c) whether Government have taken a decision to take action in this regard; and

(d) if so, the details thereof and by when the same is likely to be implemented?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI K. VENKATAPATHY): (a) and (b) Yes, Sir. The Government has received a set of proposals on electoral reforms from the Election Commission of India, which, *inter alia*, includes the proposal for checking the entry of criminals in politics. A Statement containing the said proposal is enclosed (See below).

(c) and (d) The said proposal is under consideration of the Government.

†Original notice of the question was received in Hindi.

Statement*Proposal for checking the entry of criminals in Parties**Criminalisation of politics*

This is an issue being raised by the Commission from 1998 onwards. Disqualification for criminal offences is provided for in Section 8 of the Representation of the People Act, 1951. As per that Section, a person is disqualified from contesting election only on conviction by the Court of Law. There have been several instances of persons charged with serious and heinous crimes like murder, rape, dacoity, etc. contesting election, pending their trial, and even getting elected in a large number of cases. This leads to a very undesirable and embarrassing situation of law breakers becoming law makers and moving around under police protection.

The Commission had proposed that the law should be amended to provide that any person who is accused of an offence punishable by imprisonment for five years or more should be disqualified from contesting election even when trial is pending, provided charges have been framed against him by the competent court. The Commission reiterates that such a step would go a long way in cleansing the political establishment from the influence of criminal elements and protecting the sanctity of the Legislative Houses. The counter view to this proposal is based on the doctrine that a person is presumed to be innocent until he is proved guilty. The Commission is of the view that keeping a person, who is accused of serious criminal charges and where the Court is *prima facie* satisfied about his involvement in the crime and consequently framed charges, out of electoral arena would be a reasonable restriction in greater public interests. There cannot be any grievance on this. However, as a precaution against motivated cases by the ruling party, it may be provided that only those cases which were filed prior to six months before an election alone would lead to disqualification as proposed. It is also suggested that persons found guilty by a Commission of Enquiry should also stand disqualified from contesting elections. *[The provisions in the Jammu & Kashmir Representation of the People Act are relevant in this regard]*

In the midst of the recent general elections, the Patna High Court had passed an order that persons behind bars cannot contest elections.

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On the basis of an application moved by the Election Commission, this Order was stayed by the Supreme Court with the observation that the High Court could not have passed the Order during the course of the election process. However, the SLP [No. 9204-05/2004-ECI *vs.* Jan Chowkidar (Peoples Watch) & Otrs.] is pending before the Supreme Court for final disposal.

The Commission endorses that the law should be amended as proposed above.

Women's Reservation Bill

2039. SHRIMATI BIMLA RAIKAR: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether Government have pledged in the Common Minimum Programme to introduce a legislation providing for one-third reservation for women in the Central and the State Legislatures;

(b) if so, whether it has been decided to introduce the long-pending Women's Reservation Bill in the second phase of the Budget Session; and

(c) whether the Bill would be introduced in original form or with riders like a Kangaroo quota (provisions for an OBC quota within the quota)?

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI K. VENKATAPATHY): (a) The National Common Minimum Programme provides that the United Progressive Alliance Government will take the lead to introduce legislation for one-third reservation for women in Vidhan Sabhas and in the Lok Sabha.

(b) and (c) The above said proposal is under consideration of the Government.

Pending criminal cases in Supreme Court

†2040. SHRI BHAGWATI SINGH: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that a large number of criminal cases from

†Original notice of the question was received in Hindi.