

**Bill No. LII of 2008.**

THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT)  
BILL, 2008

A

BILL

*further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

**1.** (1) This Act may be called the Representation of the People (Second Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 of 1950.

**2.** In section 24 of the Representation of the People Act, 1950,—

(i) in clause (a), for the words “chief electoral officer”, the words “district magistrate or additional district magistrate” shall be substituted;

Amendment of section 24.

(ii) after clause (a), the following clause shall be inserted, namely:—

“(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a) above.”.

Amendment of the Second Schedule **3.** In the Second Schedule to the Representation of the People Act, 1950, against serial number 18 relating to the State of Mizoram, in column 7, for the entry “38”, the entry “39” shall be substituted. 43 of 1950.

### CHAPTER III

#### AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment of section 8A. **4.** In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (1) of section 8A, for the words “as soon as may be after such order takes effect”, the words “as soon as may be within a period of three months from the date such order takes effect” shall be substituted. 43 of 1951.

Amendment of section 34. **5.** In section 34 of the principal Act, in sub-section (1),—  
 (i) in clause (a), for the words “a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees”, the words “a sum of twenty-five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of twelve thousand five hundred rupees” shall be substituted;

(ii) in clause (b), for the words “a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand five hundred rupees”, the words “a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees” shall be substituted.

Amendment of section 123. **6.** In section 123 of the principal Act, in clause (7),—  
 (i) for the words “from any person in the service of the Government”, the words “from any person whether or not in the service of the Government” shall be substituted;

(ii) after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections:”.

Insertion of new sections 126A and 126B. **7.** After section 126 of the Representation of the People Act, 1951, the following sections shall be inserted, namely:— 48 of 1951.

Restriction on publication and dissemination of result of exit polls, etc. **126A.** (1) No person shall conduct any exit poll and publish or publicise by means of the print or electronic media or disseminate in any other manner, whatsoever, the result of any exit poll during such period, as may be notified by the Election Commission in this regard.

(2) For the purposes of sub-section (1), the Election Commission shall, by a general order, notify the date and time having due regard to the following, namely:—

(a) in case of a general election, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the poll in all the States and Union territories;

(b) in case of a bye-election or a number of bye elections held together, the period may commence from the beginning of the hours fixed for poll on from the first day of poll and continue till half an hour after closing of the poll:

Provided that in case of a number of bye-elections held together on different days, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the last poll.

(3) Any person who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

*Explanation.*— For the purposes of this section,—

(a) “exit poll” means an opinion survey respecting how electors have voted at an election or respecting how all the electors have performed with regard to the identification of a political party or candidate in an election;

(b) “electronic media” includes internet, radio and television including Internet Protocol Television, satellite, terrestrial or cable channels, mobile and such other media either owned by the Government or private person or by both;

(c) “print media” includes any newspaper, magazine or periodical, poster, placard, handbill or any other document;

(d) “dissemination” includes publication in any ‘print media’ or broadcast or display on any electronic media.

126B. (1) Where an offence under sub-section (2) of section 126A has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purpose of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individual; and

(b) “director” in relation to a firm means a partner in the firm.’

## STATEMENT OF OBJECTS AND REASONS

0In any Parliamentary form of Government and in a democracy, the process of election has to be free, fair and equitable. During the years, it has been felt that it is necessary to take some need-based measures to remove certain loopholes noticed in the Representation of the People Act, 1950 (43 of 1950) and the Representation of the People Act, 1951 (43 of 1951). In July, 2004, the Election Commission of India had forwarded a set of 22 proposals on electoral reforms to the Government for consideration.

2. While considering the proposals of the Election Commission, it was considered appropriate to examine certain proposals in respect of the electoral reforms. The following five proposals have been examined by the Government which relates to amendments of the aforesaid Acts of 1950 and 1951. The said amendments are as follows:—

*(a) the Representation of the People Act, 1950:—*

appointment of the appellate authority within the district against the orders of the electoral registration officers (amendment of section 24);

*(b) the Representation of the People Act, 1951:—*

*(i)* simplification of procedure for disqualification of a person found guilty of corrupt practices (specifying a time limit in section 8A);

*(ii)* increase in the security deposit of the candidates nominated for elections (amendment of section 34);

*(iii)* inclusion in section 123(7) of all officials appointed in connection with the conduct of elections so as to bring them within the ambit of corrupt practices, if they indulge in furtherance of the prospects of the candidates at elections; and

*(iv)* restricting the publication of results of all exit polls by whatever means till the last poll in an election is held, by insertion of new sections 126A and 126B. This is considered necessary due to the complexities of the election process, which is increasing day-by-day, and as such elections are being held in several phases. In such staggering of election schedules over a large period of time it is felt that the telecast of exit polls after each phase of polling affects the outcome in the subsequent phase of elections. It is believed that such telecast of exit polls affect the turnout of voters' also.

4. The Representation of the People (Second Amendment) Bill, 2008 seeks to achieve the above said objectives.

NEW DELHI;

HANS RAJ BHARDWAJ.

*The 20th October, 2008.*

*ANNEXURE*

EXTRACT FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950  
(43 OF 1950)

\* \* \* \* \*

**24.** An appeal shall lie with such time and such manner as may be prescribed— Appeals.

(a) to the chief electoral officer, from any order of the electoral registration officer under section 22 or section 23.

\* \* \* \* \*

The Second Schedule  
(See sections 7 and 7A)

*Total number of seats in the Legislative Assemblies*

Name of the State/ Union territory	Number of seats in the House as constituted on the basis of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended from time to time			Number of seats in the House as subsequently constituted as per the Delimitation of Parliamentary and Assembly Constituencies Order, 2008		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
1. States:						
18 Mizoram	40		39	40		38

\* \* \* \* \*

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951  
(43 OF 1951)

\* \* \* \* \*

**8A.** (1) The case of every person found guilty of a corrupt practice by an order under section 99 shall be submitted, as soon as may be after such order takes effect, by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period: Disqualifica-  
tion on ground  
of corrupt  
practices.

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

\* \* \* \* \*

**34.** (1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited,— Deposits.

(a) in the case of an election from a Parliamentary constituency, a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees; and

(b) in the case of an election from an Assembly or Council constituency, a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand five hundred rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.

\* \* \* \* \*

## PART VII

### CORRUPT PRACTICE AND ELECTORAL OFFENCES

#### CHAPTER I.—Corrupt Practices

Corrupt  
Practices.

**123.** The following shall be deemed to be corrupt practices for the purposes of this Act,—

\* \* \* \* \*

(7) The obtaining or procuring or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:—

- (a) gazetted officers;
- (b) stipendiary judges and magistrates;
- (c) members of the armed forces of the Union;
- (d) members of the police forces;
- (e) excise officers;

(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and

(g) such other class of persons in the service of the Government as may be prescribed:

Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

\* \* \* \* \*

RAJYA SABHA

---

A

**BILL**

further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

---

*(Shri Hans Raj Bhardwaj, Minister of Law and Justice)*