

INFORMATION BULLETIN

No. LARRDIS (LC) 2012/IB-2

JULY 2012

VICE-PRESIDENTIAL ELECTION 2012

The Constitution provides that there shall be a Vice-President of India. Article 64 lays down that the Vice-President shall be *ex officio* Chairman of the Rajya Sabha, the Council of States and shall not hold any other office of profit.

The Vice-President acts as the President in the event of occurrence of any vacancy caused by death, resignation or removal of the President or otherwise until the new President is elected and assumes office which in no case shall be later than six months from the date of occurrence of the vacancy. The Vice-President shall also discharge the functions of the President when he is unable to act owing to absence, illness or any other cause until the date on which the President resumes his duties.

In the last sixty years, twice the occasion arose when the Vice-President acted as the Acting President. After the sudden demise of the President Dr. Zakir Husain on 3 May 1969, the Vice-President Shri V.V. Giri assumed the office of the Acting President until 20 July 1969. Similarly, when the President Fakhruddin Ali Ahmed passed away on 11 February 1977, the Vice-President Shri B.D. Jatti, assumed the office of the Acting President until 25 July 1977.

There have been several occasions when the Vice-President discharged the functions of the President owing to absence or illness of the President. In both the contingencies, that is, Vice-President acting as, or discharging the functions of the President, the Vice-President is referred to as acting as or discharging the functions of the President.

When the Vice-President acts as President or discharges the functions of the President, he has all the powers and immunities of the President and is entitled to the same emoluments, allowances and privileges as are admissible to the President. The Constitution lays down that during this period, the Vice-President shall not perform the duties of the office of Chairman of the Rajya Sabha.

The Vice-President Mohammad Hamid Ansari is completing his five-year term on 10 August 2012. It is thus necessary that process of the Vice-Presidential Election should be completed and result declared in time so that the new Vice-President assumes office on or before 11 August 2012. So far, Thirteen Vice-Presidential Elections have taken place from 1952 to 2007. The Fourteenth Vice-Presidential Election, as notified by the Election Commission of India, is scheduled to be held on 7 August 2012.

Vice-Presidents of India

Dr. S. Radhakrishnan (13 May 1952–12 May 1962)	Shri R. Venkataraman (31 August 1984–24 July 1987)
Dr. Zakir Husain (13 May 1962–12 May 1969)	Dr. Shanker Dayal Sharma (3 September 1987–24 July 1992)
Shri V.V. Giri* (13 May 1967–3 May 1969)	Shri K. R. Narayanan (21 August 1992–24 July 1997)
Shri G.S. Pathak (31 August 1969–30 August 1974)	Shri Krishan Kant (21 August 1997–27 July 2002)
Shri B.D. Jatti@ (31 August 1974–30 August 1979)	Shri Bhairon Singh Shekhawat (19 August 2002–21 July 2007)
Shri M. Hidayatullah (31 August 1979–30 August 1984)	Mohammad Hamid Ansari (11 August 2007–Till date)

* Shri V.V. Giri was the Acting President from 3 May 1969 to 20 July 1969.

@ Shri B.D. Jatti was the Acting President from 11 February 1977 to 25 July 1977.

Term of office of Vice-President

The Vice-President holds office for a term of five years from the date on which he enters upon his office and continues to hold the office notwithstanding the expiration of his term, until his successor enters upon his office.

Vacation of Office

The Vice-President may resign his office before the expiry of his term. Such resignation is to be given in writing addressed to the President of India. The Vice-President may also be removed from his office by a resolution of the Rajya Sabha, passed by a majority of all the then members of the Rajya Sabha and agreed to by the Lok Sabha.

Eligibility for Election

Article 66 of the Constitution provides that a person eligible for election as Vice-President should be a citizen of India; must have completed 35 years of age; and should be qualified for election as a member of the Rajya Sabha. Such person should not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments. However, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State. If a sitting member of Parliament or of a House of the Legislature of any State is elected as Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

Eligibility for Re-election

The Vice-President present or former, is eligible for re-election for any number of times.

Dr. S. Radhakrishnan is the only Vice-President who was re-elected in 1957.

Electoral College

The Vice-President of India is elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of the single transferable vote. The voting at such election is by secret ballot. In such an election, the elected members of Rajya Sabha, the nominated members of Rajya Sabha, the elected members of Lok Sabha and the nominated members of Lok Sabha, are the members of the electoral college. Members, in respect of whom the appropriate Court, *i.e.* High Court or Supreme Court, has given a limited stay of operation of the order of setting aside of his election by the Court, are not entitled to vote at the election, though their names would have been included in the electoral college.

The mode of election of the Vice-President differs from that of the President insofar as the elected members of the Legislative Assemblies of the States do not form part of the electoral college for the Vice-Presidential Election.

Electoral College for the 14th Vice-Presidential Election

Rajya Sabha

Elected: 233

Nominated: 12

Lok Sabha

Elected: 543

Nominated: 2

Total 790

Value of Vote

The value of vote of each member of Parliament, for the Vice-Presidential Election, is ONE.

Change in the Method of Election

Article 66 of the Constitution, as originally enacted provided that the Vice-President was to be elected by the members of the both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote. No such joint meeting, however, took place in the Vice-Presidential Election held either in 1952 or in 1957, as on both occasions the election was uncontested. It was on closer consideration felt that the various stages of an important election of this character could not be satisfactorily or conveniently gone through at a joint meeting of more than 700 members assembled at one place. The clause was, accordingly, amended by the Constitution (Eleventh) Amendment Act, 1961 providing for election "by the members of an electoral college consisting of the members of both Houses of Parliament" thereby dispensing with the earlier requirement of a joint meeting of both Houses of Parliament assembled for the election of the Vice-President. Article 71 of the Constitution was also amended to clarify that the election of the Vice-President cannot be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college.

Notification of Election

An election to fill a vacancy caused by the expiration of the term of office of the Vice-President shall need to be completed before the expiration of his term. However, an election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal or otherwise is held as soon as possible after the occurrence of the vacancy.

Under the provisions of the Presidential and Vice-Presidential Elections Act, 1952, the notification calling the Vice-Presidential Election can be issued by the Election Commission of India on or after the sixtieth day before the expiry of term of the office of the outgoing Vice-President.

A Press Note detailing the programme for the election to fill the office of the Vice-President has been issued by the Election Commission on 3 July 2012.

Returning Officer

By convention, the Secretary-General, Lok Sabha or the Secretary-General, Rajya Sabha is appointed as the Returning Officer by rotation. For the 2007 Vice-Presidential Election, the Secretary-General, Rajya Sabha was appointed as the Returning Officer. Therefore, for the 2012 Vice-Presidential Election, the Secretary-General, Lok Sabha, Shri T.K. Viswanathan has been appointed as the Returning Officer and Shri V.R. Ramesh, Joint Secretary, Lok Sabha Secretariat, has been appointed as the Assistant Returning Officer.

For the first, second, fourth, sixth, eighth, tenth and twelfth Vice-Presidential Elections, the Secretary/Secretary-General of Lok Sabha and; for the third, fifth, seventh, ninth and thirteenth Vice-Presidential Elections, the Secretary/Secretary-General of Rajya Sabha were appointed as the Returning Officers. However, during the eleventh Vice-Presidential Election, the Secretary, Ministry of Parliamentary Affairs was appointed as the Returning Officer, which was a departure from the established practice of appointing the Secretary-General of the Rajya Sabha or the Lok Sabha as the Returning Officer.

Place of Poll

Room No. 63 on the First Floor of the Parliament House in New Delhi has been fixed as the place of poll for the Vice-Presidential Election, 2012.

Counting of Votes

The counting of votes takes place at the office of the Returning Officer in New Delhi on the date and time appointed by the Election Commission. The counting of votes in all the Vice-Presidential Elections contested so far was completed on the day of the poll itself.

Quota for Election

The Returning Officer takes up the counting of votes and scrutinizes the ballot papers first and separates the invalid votes. The valid ballot papers are distributed among the contesting candidates by placing the valid ballot papers according to first preference marked therein in the tray meant for the candidate. After counting the total valid votes polled by each candidate, the Returning Officer totals up the valid votes polled by all the contesting candidates. Thereafter, the quota for declaring a candidate as elected is determined by dividing the total valid votes by 2 and adding one to the quotient, ignoring the remainder, if any.

For example, assuming the total of valid votes polled by all candidates is 789, the quota required for getting elected is as follows:

$$\frac{789}{2} + 1 = 394.50 + 1 \text{ [Ignore .50]}$$

$$\text{Quota} = 394 + 1 = 395$$

After ascertaining the quota, the Returning Officer has to see whether any candidate secured the quota for being declared as elected on the basis of the total of first preference votes polled by him.

VICE-PRESIDENTIAL ELECTIONS		
Election	No. of Candidates	Electoral College
First Vice-Presidential Election, 1952	Elected unopposed [@]	715
Second Vice-Presidential Election, 1957	Elected unopposed [@]	735
Third Vice-Presidential Election, 1962	Two	745
Fourth Vice-Presidential Election, 1967	Two	749
Fifth Vice-Presidential Election, 1969	Six	759
Sixth Vice-Presidential Election, 1974	Two	767
Seventh Vice-Presidential Election, 1979	Elected unopposed [@]	788
Eighth Vice-Presidential Election, 1984	Two	788
Ninth Vice-Presidential Election, 1987	Elected unopposed [@]	790
Tenth Vice-Presidential Election, 1992	Two	790
Eleventh Vice-Presidential Election, 1997	Two	790
Twelfth Vice-Presidential Election, 2002	Two	790
Thirteenth Vice-Presidential Election, 2007	Three	790

[@] Dr. S. Radhakrishnan, Shri M. Hidayatullah, and Dr. Shanker Dayal Sharma were elected unopposed in the Vice-Presidential Elections of 1952 and 1957; 1979; and 1987, respectively.

If no candidate gets the quota on the basis of first preference votes, then the Returning Officer proceeds further to second round of counting during which the candidate having lowest number of votes of first preference is excluded and his votes are distributed among the remaining candidates according to the second preference marked on these ballot papers. The other continuing candidates receive the votes of excluded candidate at the same value of ONE.

The Returning Officer will go on excluding the candidates with lowest number of votes in subsequent rounds of counting till either one of the continuing candidates gets the required quota or till only one candidate remains in the field as the sole continuing candidate and declares him as elected.

Dispute over Election

Any doubt or dispute relating to a Vice-Presidential election can be raised only by means of an election petition after the election is over and it shall be inquired and decided by the Supreme Court, whose decision shall be final. An election petition calling in question an election to the office of Vice-President may be presented to the Supreme Court by any candidate at such election or by any ten or more electors joined together as petitioners. Such election petition may be presented within 30 days from the date of publication of the declaration containing the name of the returned candidate.

Return or Forfeiture of Candidate's Deposit

The deposit shall be forfeited if the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the number of votes necessary to secure the return of a candidate at such election. In other cases, the deposit will be returned to the candidate.

Important Provisions relating to Vice-Presidential Election

The Presidential and Vice-Presidential Elections Act, 1952 and the Presidential and Vice-Presidential Elections Rules, 1974 as amended from time to time, lay down in detail the process and procedure for the election of the Vice-President commencing with the appointment of the Returning Officers by the Election Commission. Following are the important provisions relating to candidature:

- Till 1974, only one proposer and one seconder were needed for a nomination paper for the Vice-Presidential Election and there was no requirement of security deposit. In 1974, the nomination paper was required to be subscribed by at least 5 proposers and 5 seconders. This number was increased to 20 proposers and 20 seconders in 1997.

- The security deposit was introduced in 1974 as ₹ 2,500/-. It was increased to ₹ 15,000/- in 1997. However, a candidate nominated by more than one nomination paper has to make only one deposit.
- No elector shall subscribe whether as proposer or as seconder, more than one nomination paper at the same election and if he so does, his signature shall be inoperative on any paper other than the one first delivered to the Returning Officer.
- Not more than four nominations can be filed by or on behalf of a candidate or accepted by the Returning Officer.
- Each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the parliamentary constituency where he is registered as an elector.

Some Facts

- The Vice-Presidents Dr. S. Radhakrishnan; Dr. Zakir Husain; Shri V.V. Giri; Shri R.Venkataraman; Dr. Shanker Dayal Sharma; and Shri K.R. Narayanan, later also became the Presidents of India.
- In the Fifth Vice-Presidential Election held in 1969, there were as many as six contesting candidates—the highest number so far in all the Vice-Presidential Elections.
- In 1979 for the seventh Vice-Presidential Election, in all there were 13 nominations. The Returning Officer on scrutiny rejected the nominations of all the candidates except that of Shri M. Hidayatullah, who was declared elected unopposed.
- Similarly, in 1987 Vice-Presidential Election, 27 candidates had filed their nominations and on scrutiny only the nomination of Dr. Shanker Dayal Sharma was found valid and he was declared elected unopposed.
- All the Vice-Presidents, who contested, secured the required quota of votes in the first round of counting and were declared elected.
- The Presidential and Vice-Presidential Elections held in 1962 and 1967 were held simultaneously on the same date, that is, 7 May 1962 and 6 May 1967. As a result, several members who took the permission to vote at the State capitals for the Presidential Election could not vote for the Vice-Presidential Election held in New Delhi on the same date as voting for the Vice-Presidential Election takes place only in New Delhi.

Prepared by Smt. Manju Sharma, Additional Director and Shri Babulal Naik, Joint Director under the supervision of Shri P.K. Misra, Joint Secretary and Smt. Renu Sadana, Director, with inputs from the Election Commission of India, for the use of Members of Parliament. It is intended to serve as a background aid. Feedback is welcome and may be sent to lca-iss@sansad.nic.in.