

**GOVERNMENT OF INDIA  
LAW AND JUSTICE  
LOK SABHA**

UNSTARRED QUESTION NO:5156

ANSWERED ON:25.04.2003

CONSTITUTION REVIEW COMMISSION

AJAY CHAKRABORTY;ARUN KUMAR;JAYABEN B. THAKKAR;JAYASHREE BANERJEE;RAMDAS ATHAWALE;VINAY KUMAR SORAKE;VIRENDRA KUMAR

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

(a) whether the Constitution Review Commission constituted under the Chairmanship of Justice M.N. Venkatachaliah for the purpose of bringing about comprehensive changes in the electoral laws and to recommend certain new fundamental rights, has submitted its final report to the Government;

(b) if so, the details of the recommendations made therein; and

(c) the action taken so far by the Government on these recommendations?

**Answer**

MINISTER OF LAW AND JUSTICE & COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY)

(a) & (b) Yes, Sir. The National Commission to Review the Working of the Constitution (NCRWC) has submitted its report to the Government on 31st March, 2002. The Commission has made various recommendations pertaining to

(i) Fundamental Rights, Directive Principles and Fundamental Duties;

(ii) Electoral Processes and Political Parties;

(iii) Parliament and State Legislatures;

(iv) Executive and Public Administration;

(v) The Judiciary;

(vi) Union-State Relations;

(vii) Decentralization and Devolution; and

(viii) Pace of Socio-Economic change and Development. Details of the recommendations on Electoral Processes and Political Parties are given in the statement.

(c) The full text of the report of the Commission has been put on the Internet and the report has also been forwarded to all Ministries/Departments for examining and processing the same. Action on the recommendations lies with the Ministries/Departments of the Government of India, which are administratively concerned with the subject matter of the recommendations.

STATEMENT IN REPLY TO LOK SABHA UNSTARRED QUESTION NO.5156 FOR 25.04.2003

Recommendations made by the National Commission to Review the Working of the Constitution on Electoral Process.

1. Introduction of Electronic Voting Machines in all constituencies.

2. Empowerment of Election Commission of India to countermand and order fresh elections, ordering re-poll in entire constituency. Use of tamper-proof video and other electronic surveillance at sensitive stations.

3. Election campaigning on caste or religious basis and attempts to spread caste and communal hatred be made punishable with mandatory imprisonment or even disqualification of the candidates.

4. Amendment in Representation of People's Act to include tougher provisions for disqualification of candidates, charged with offences punishable with imprisonment of 5 years or more or convicted with imprisonment of 6 months or more and derecognition of political parties which field such candidates despite being aware of his antecedents.

5. Barring of any person convicted of heinous crimes like murder, rape, smuggling, dacoity, etc., permanently from contesting for any political office.

6. Setting special Courts to dispose criminal cases against politicians speedily. Empowering these courts to decide whether there is indeed a prima-facie case justifying the framing of charges by the police against a potential candidate in a time-bound manner. The special courts should be constituted at the level of High Courts and their decisions should be appealable before the Supreme Court only. Cases should be decided within a period of 6 months.

7. The provision in sub-section (4) of Section 8 of the Representation of People's Act, 1951, should be suitably amended so that the benefit of this provision is not available for the purpose of the person contesting fresh elections.

8. The provision regarding disqualification of a person from contesting elections after charges are framed in a Court for an offence punishable with imprisonment for a maximum period of 5 years or more after expiry of a period of one year should be equally applicable to sitting MPs and MLAs.
9. Restoring the position prevailing before 1975 amendment of the Representation of People's Act, 1951, to enable the President to determine the period of disqualification under Section 8A on direct opinion of the EC to avoid any delay in the matter.
10. Special Courts or special election benches in High Courts should dispose of election petitions and election disputes.
11. Matter regarding election expenses and their auditing, etc., should be rationalized.
12. All candidates and every holder of a political position must declare his assets and liabilities and those of his close relatives at the time of elections or annually as the case may be.
13. Proposals of State funding the elections should be deferred till regulatory mechanisms are firmly in place.
14. Campaign period should be reduced considerably. Candidates should not be allowed to contest from more than one constituency. Election code of conduct should come into operation immediately on declaration of elections and violations should be made a penal offence.
15. The Commission has recommended a careful and full examination of the issue of prescribing a minimum of 50% plus one vote for elections in all its aspects in consultation with various political parties and other interested parties.
16. Inter-State delimitation exercise of Lok Sabha and Assembly constituencies may be undertaken. SC and non-scheduled areas ST seats should be rotated.
17. The Tenth Schedule of the Constitution should be amended to provide that all persons who defect, whether individually or in groups, must resign from their seats and contest fresh elections. Defectors should be debarred from holding any public post or any remunerative political post during the remaining term or till fresh elections. The vote cast by such defectors should be treated as invalid and decision on disqualification should vest with the Election Commission.
18. There should be a ceiling of 10% on the number of Ministers in a State or the Union Government by making suitable law. Practice of creating political offices with perks equivalent to Ministers should be discouraged and restricted to 2% of the total strength of the Lower House.
19. Independent candidates should be discouraged. Security Deposits in respect of these candidates should be doubled. The deposits should be double every progressive year in case they fail to win elections and they should be debarred from contesting elections for a period of 6 years if they fail to get 5% of the total votes cast and debarred permanently for failing to win 3 elections.
20. The limit for forfeiting the security deposit should be increased from 16.67% to 25% to reduce non-serious candidates.
21. It should be possible without any constitutional amendment to provide for the election of the Leader of the House (Lok Sabha/State Assembly) along with the election of the Speaker and in like manner under the Rules of Procedure. The person so elected may be appointed the Prime Minister/Chief Minister.
22. The issue of eligibility of non-Indian born citizens or those whose parents or grandparents were citizens of India to hold high offices in the realm such as President, Vice-President, Prime Minister and Chief Justice of India should be examined in depth through a political process after a national dialogue.
23. The CEC, other Elections Commissioners should be appointed on the recommendation of a body consisting of the PM, Leader of Opposition in both the Houses and Speaker and Deputy Chairman of Lok Sabha and Rajya Sabha respectively.
24. Only those persons who have cleared all Government dues should be cleared to contest elections. That the matter is pending before a Court of law should be no excuse in the matter.
25. Suitable amendments should be made in the Constitution to empower the Election Commission to identify and declare various offices under the Government to be within 'Offices of Profit'.