

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

UNSTARRED QUESTION NO:526

ANSWERED ON:26.02.2015

ELECTORAL REFORMS

Ahlawat Smt. Santosh;P. Shri Nagarajan;Shetti Shri Raju alias Devappa Anna

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

- (a) whether the Law Commission of India has submitted its report on the issue of electoral reforms referred to it by the Government and if so, the details thereof along with the reaction of the Government thereto;
- (b) the number of candidates having criminal cases pending against them in various courts under cognisable and noncognisable offences who participated in the Lok Sabha/Rajya Sabha and Assembly/ Legislative Council elections in the country during the last three years;
- (c) the steps taken/being taken by the Government to restrict the entry of candidates with criminal antecedents into politics;
- (d) whether the Government has received any proposals from various States/ stakeholders regarding compulsory voting in various elections in the country; and
- (e) if so, the details thereof along with the reaction of the Government thereto?

Answer

MINISTER OF LAW AND JUSTICE (SHRI D.V. SADANANDA GOWDA)

(a) to (e): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLIES TO PARTS (a) TO (e) OF LOK SABHA UNSTARRED QUESTION NO. 526 FOR ANSWER ON 26TH FEBRUARY, 2015.

The Law Commission has submitted its 244th Report containing the following recommendations:-

(i) Disqualification on framing of charges

Suggesting insertion of a new section 8B in the Representation of the People Act, 1951, the Law Commission has recommended that:-

- (a) Only offences which have a maximum punishment of five years or above ought to be included within the remit of this provision;
- (b) Charges filed upto one year before the date of scrutiny of nominations for an election will not lead to disqualification.
- (c) The disqualification will operate till an acquittal by the trial court, or for a period of six years, whichever is earlier.
- (d) For charges framed against sitting M.Ps, the trials must be expedited so that they are conducted on a day to day basis and concluded within a 1-year period. If trial is not concluded within one year period then one of the following consequences ought to ensue:
 - The MP/MLA may be disqualified at the expiry of one year period; "OR"
 - The MP/MLA's right to vote in the House as a member, remuneration and other perquisites attached to their office shall be suspended at the expiry of one-year period.

(ii) Filing of false affidavits :-

The Law Commission has recommended the following changes in the Representation of the People Act, 1951:-

- (a) Introduce enhanced sentence of a minimum of two years under section 125A of the Representation of the People Act, 1951 on the filing of false affidavits;
- (b) Include conviction under section 125A as a ground of disqualification under section 8(1) of the Representation of the People Act, 1951.
- (c) Include the offence of filing false affidavit as a corrupt practice under section 123 of the Representation of the People Act, 1951.

The above recommendations of the Law Commission are under examination of the Government.

Law Commission Report on other aspects of Electoral Reforms is awaited.

The Election Commission has stated that all candidates contesting election to either House of the Parliament, Legislative Assembly and Legislative Council, have to make declaration in Form 26 appended to the Conduct of Elections Rules, 1961 giving, among others, information about pending cases, if any, against them at the time of filing nomination, for information of the electors. Apart from displaying copies of such affidavits on the notice board of Returning Officer, during the election period, scanned copies of all these

affidavits are put in public domain by uploading them on the website of the Chief Electoral Officers with a hyperlink to ECI website so that electors can access the information. The Commission has further stated that it has not compiled information about the number of candidates who have pending cases against them.

At present, no proposal for making voting mandatory in the Parliamentary/Assembly elections is under consideration of the Government.