

Title: Discussion regarding electoral reforms.

**16.49 hrs.**

## DISCUSSION UNDER RULE 193

Electoral Reforms – Contd.

MR. CHAIRMAN : Now, we will take up Item No. 13, discussion under Rule 193 – Electoral Reforms. सभी माननीय सदस्यों से यह अपेक्षा की जाती है कि वे कम-से-कम शब्दों में अपनी बात को रखेंगे और मुख्य बिंदुओं तथा सुझावों पर ही प्रकाश डालेंगे।

SHRI SHRI V. KISHORE CHANDRA S. DEO (PARVATIPURAM): Mr. Chairman, I will just make a few points. Basically, I am not going in for a rambling political speech. Yesterday, when the House was adjourned, I was mentioning that we should have photo identity cards which will serve all purposes. I had said that should activate the electronic voting machine. This is basically to eliminate the prospects of booth capturing and to reduce the role of criminals during the electoral process.

Sir, certain Members have suggested, and from the general public also suggestions have been coming, that the people who have been chargesheeted for a crime which is punishable for more than 2 years should be disqualified from fighting elections. This is a double-edged sword. Now, you already have Section 8 of the Representation of the People's Act which lays down conditions for disqualification.

Tomorrow, if you start making a statutory provision to say that anybody charge sheeted for a crime which can be punishable for more than two years is disqualified, this will be totally against all basic norms and principles of democracy. Well, all of us have gone through Shri N.N. Vohra's report. In today's situation and circumstances, a chargesheet can be filed against anybody. Just by filing a chargesheet if you are going to prevent a person from fighting elections and if he is acquitted after 5 or 10 years, who is going to compensate for the time in between? I totally oppose that kind of a suggestion.

Some colleagues spoke about the right to recall. The right to recall sounds like a very noble idea. But in our kind of polity and situation, tomorrow if you give the right to recall, the day you get elected to Parliament, from the next day, your opponents will start collecting signatures to recall you back from Parliament. Again, criminals will be used, money will play its role and it will become a continuing process. So, before making such provisions, we should deeply think about other consequences in our kind of a situation.

Some of the friends from the Left parties said that we should have a system of proportional representation. If half are going to be elected by the system of proportional representation, the existing constituencies will be enlarged, they will become twice in size. We have a geographical responsibility to more than one million voters. This kind of proportional representation system will not benefit our kind of a situation.

I have a different kind of suggestion. My hon. colleague who is sitting here had mentioned that in our First-Past-the-Post System, one party can get 51 per cent votes and one party which gets 49 per cent votes need not have a single member either in the Assembly or in Parliament. Theoretically that is possible. I would like to suggest that why do not we begin with the system of proportional representation for elections to the Upper House. After all, it is the Members of the Legislative Assemblies who elect Members to the Upper House. Based on the percentage of votes polled in an Assembly election, a formula can be devised and political parties can be allotted seats for Rajya Sabha. So, you see those who have got a lesser percentage of votes need not be denied completely from voicing the opinion in at least one House of the Parliament.

In recent times, there has been a lot of debate about the role of the Governor, whether a Governor should be there at all, whether he should not be there. How he should act and how he should not act. You are also aware of the fact that in the scheme of our Constitution, the Governor is probably the only Constitutional authority whom you cannot impeach. It is presumed that since the

President appoints him, he can also recall him. Otherwise, it is vague and a Governor can also continue until his reliever comes. Suppose, tomorrow if I am the Governor of some State and you do not send a reliever for 10 years, I can continue for 15 years. Hon. Law Minister is here. I would like him to consider the possibilities after talking to people from other Opposition parties. Why should Governors not be elected by Members of both Houses of Parliament? If Members of both Houses of Parliament can elect the Vice-President who is Chairman of Council of States, why cannot Governors of States be elected by the single transferable vote just as Rajya Sabha Members are elected by MLAs for a fixed term of five years? This is my proposition and I would like you to consider this.

MR. CHAIRMAN : Please conclude.

SHRI V. KISHORE CHANDRA S. DEO : Mr. Chairman, Sir, a large number of Members said and you yourself had said that if percentage of votes increases, if it is more than 70 percent to 80 percent then those votes will not be counted. This is a constitutional abrogation. It is because every person has a right to vote as long as it is a genuine vote and by saying if it is more than 70 per cent to 80 per cent, if the last 10 per cent or 20 per cent voters do not vote, you are actually denying them the Constitutional right. I do not think that Election Commission or anybody has the right to take away your sacred and Constitutional right or guarantee to vote. I think this matter should be taken up seriously by the Government.

I will not take much of your time as you have asked me to conclude. I would like to thank you for this opportunity.

SHRI MADHUSUDAN MISTRY (SABARKANTHA): Sir, please give me permission for a minute to make a suggestion. I would like to request that Law Minister should call a meeting of MPs to listen to these electoral reforms. This is a very important subject. Either he can call a Seminar in Annexe or anywhere else. That would really be very helpful. It is because a lot of people will not get an opportunity to speak here.

MR. CHAIRMAN: Okay, you can request him personally. There is no problem.

DR. M. JAGANNATH (NAGAR KURNOOL): Mr. Chairman, Sir, I would like to congratulate you for initiating this debate on electoral reforms under Rule 193. At the present juncture, this is very much needed. The framers of the Constitution would have never thought that we would be having such a situation in our country after 57 years of Independence.

Sir, the judiciary is interfering at every level and this is creating a very awkward situation for us. The Government is taking the plea that there should be political consensus for enforcing electoral reforms. But we have seen how many transformations have been taking place in this country in these 57 years after Independence. Many things have been decided by consensus. If the Government has the will, then they should immediately initiate the process of consultations with all political parties and create a consensus for bringing in electoral reforms. We have been discussing this subject in every Lok Sabha, but the Government is not taking any action.

Some time ago, a Writ Petition was filed by the People's Union for Civil Liberties against the Government of India. On that, the Supreme Court has directed the Election Commission to elicit information regarding criminal records and assets of all the candidates. This type of a situation should not arise. This is happening due to the loopholes present in our laws.

As far as election expenditure is concerned, the Election Commission has put some restriction on election expenditure for every Parliamentary and Assembly constituency, but all the candidates are not strictly following that and so the results of the election, which have to reflect the wishes of the people, are getting influenced by various factors like money power etc. The money power is mainly used to influence the weaker sections of the people. Though money is not the only criteria for winning an election, our experience shows that whoever has got money power, he is influencing the result of an election by using his money power and this is going against those people who do not have sufficient money to spend in the election. That is why, the Telugu Desam Party has been proposing for a long time that the Government should fund the election process and there should also be a strict vigilance on that.

Sir, some initiatives had been taken some time ago. The people thought that some electoral reforms are going to come and something good was going to happen. But those initiatives have been put in cold storage and the same old practices are continuing. We have seen during the election time on television as to how some people who have been carrying huge moneybags to influence the voters have been caught. When they were caught, they said that it was not their money. Then, whose money was it? So, I would request the Government to introduce State funding of election and the Government should have a strict vigilance on spending. The Telugu Desam Party proposed to have this system in the local body elections, but it could not be implemented due to certain reasons.

Now, I come to criminalisation of politics. There is a nexus between politicians and criminals in our country and so we are having an awkward situation. In some cases, the courts are taking the upper hand and this is really creating a very bad situation in the country. India is the largest democracy in the world and to have this kind of situation is not good for our country. Once some individuals with criminal records get elected, they become the law makers, and when they become law makers, who will implement the laws? Will the law

enforcing agencies properly implement the law against those persons who make laws?

Sir, there are enough laws in our country, but there are many loopholes in them. So, I would request the Law Minister that we should have a very stringent law, and this is very important.

**17.00 hrs.**

Some time back, we have participated in the All Party Meeting regarding electoral reforms. But we could not reach a consensus because it is a fact that in all political parties, we have some sort of individuals with criminal records. This is a serious matter. We should sit together, think over it and a law should be made that no political party, whichever it maybe, should have candidates with criminal records.

One of my friends was just saying that there are people with criminal record of two years. It is a funny thing because it is not proved so far whether that person is a criminal. The case takes years together, but till such time we have a person with criminal record. What will be the situation? Who will be the law enforcing authority? How can they enforce law in such a case if the people sitting here have criminal records? That is why, my request to the hon. Law Minister is to see that a remedial law is made so that none of the political parties sponsors people with criminals records.

Sir, of late, as we are passing through a phase where the lower level employees -- the top level employees do not bother about elections -- have actually become the deciding factor in the elections at the grass root level. Though there are laws that bar the employees who indulge in political activities and there is a provision for punishment, none of them has been punished so far. Generally, it is a complaint during elections.

Sir, in the recent elections EVMs were used. We have brought in a radical change in the voting system. It is a good sign. It quickens the process and we get quick results. But what has happened? We have not informed the people at large about the operation of these EVMs, that is why it played havoc throughout the country. I do not want to name anybody. But in such a condition where the employees violate the electoral rules and indulge in such activities, they should be punished severely.

Then, Sir, seeking votes on the basis of religion and communalism has become a part and parcel of electioneering now a days. Though the authorities know what is happening, they are keeping a lukewarm attitude and allowing people to seek votes on the basis of caste, religion and community. Such open statements are made during the time of elections. These should be curbed and there should be free and fair elections. Otherwise, it will be a dangerous trend for the country as a whole.

Coming to muscle power and booth-capturing, in some of the States, we have seen that people use muscle power and capture booths in the elections. They have their own private armies. They threaten the employees posted at the election booths and get their candidates elected. There are instances, in some villages there are people, who have not voted at all even now after 57 years of Independence. They have not seen the ballot box, how it looks like. We have to take steps with regard to large scale rigging and countermanding the elections at those places. But if a law is made that wherever there is such type of booth capturing, the election will be countermanded automatically, then there will be a fear in the minds of candidates that if this happens the election will be countermanded. This will keep the people away from using muscle power.

Finally, I request the Government of India not to go with the plea that a consensus has to be brought in. When will the consensus be brought in? Unless the Government makes a concrete effort, pursues continuously, a consensus cannot be brought in. What happened to the Women Reservation Bill? Let us not take the plea that consensus could not be reached. This will pave the way for the criminals to get into, the muscle power to get into, the money power to get into politics and fair elections will not be held.

Sir, India has got a fair name of having free and fair elections. Let this name not be damaged. Finally, I would request the hon. Law Minister to call for an all party meeting, have a consensus and come out with such a law wherein good people are elected and good governance is given to this country.

**कुँवर मानवेन्द्र सिंह (मथुरा) :** स्भापति जी, सर्वप्रथम में आपका आभार व्यक्त करता हूँ कि आपके द्वारा पेश किए नियम 193 के तहत चुनाव सुधारों के विय पर मुझे इस सम्मानित सदन में चर्चा करने का मौका मिला है। यहां विधि मंत्री जी उपस्थित हैं। मैं उनका ध्यान कुछ बातों की ओर आकर्षित करना चाहूंगा। इस देश में 18 साल से अधिक उम्र के लोगों को वोट देने का संवैधानिक अधिकार प्राप्त है। यह अधिकार भारत के हर उस नागरिक को प्राप्त है, जो प्रांतों में और केन्द्र में अपने प्रतिनिधियों का चुनाव करते हैं या ग्राम स्भा से लेकर जिला परिषद तक का चुनाव करते हैं। कुछ अधिकारियों की त्रुटियों के कारण या राजनीतिक द्वेष भावना के कारण कई लोगों के इस मौलिक अधिकार को छीन लिया जाता है और उनका नाम वोटर लिस्ट में नहीं होता है। जब वे लोग वोट डालने जाते हैं तो उन्हें वहां अपना नाम नहीं मिलता। चुनाव आयोग ने स्भी वोटर्स के लिए फोटो वाला पहचान पत्र बनाया था। लेकिन पिछले चुनाव में देखने में आया कि जिन लोगों के पास वह कार्ड था, **that was attested by the local election authority.** जब वे वोटर वहां पहुंचे, तो उन लोगों का नाम वोटर लिस्ट में नहीं था। मैं मंत्री जी से जानना चाहूंगा कि जिन लोगों को वोट डालने के संवैधानिक और मौलिक अधिकार से वंचित किया गया, क्या उन अधिकारियों के खिलाफ कोई कार्रवाई की गई है या नहीं? वे लोग तो बड़े मजे से कह देते हैं कि आपका नाम इस वोटर लिस्ट में नहीं है। पिछले चुनाव में हमने देखा कि लाल पेंसिल से कई लोगों का नाम वोटर

लिस्ट से काट दिया गया। वे लोग जब वोट डालने पहुंचे, तो उन्हें कहा गया कि तुम्हारा नाम लिस्ट में नहीं है इसलिए तुम वोट नहीं डाल सकते। मैं जानना चाहता हूँ कि ऐसे अधिकारियों को, जिनके उम्र चुनाव कराने की जिम्मेदारी डाली गई थी, किसने यह अधिकार दे दिया और क्या उनके खिलाफ सरकार द्वारा कोई कार्रवाई की गई? इसके अलावा क्या राजनीतिक दलों से भी पूछा गया कि इस तरह का भेदभाव करके क्यों इन लोगों का संवैधानिक अधिकार छीना गया है?

सभापति महोदय, मैं आपके माध्यम से मंत्री जी से कहना चाहूंगा कि चुनाव के समय पोलिंग बूथ्स काफी दूरी पर बनाए जाते हैं। कहीं यह कोई उच्चर तो नहीं है, क्योंकि वृद्धों को, महिलाओं को और बीमार लोगों को वोट डालने के लिए दो-तीन किलोमीटर दूर तक जाना पड़ता है। पिछला चुनाव गर्मी के मौसम में हुआ, जिसकी वजह से कई वोटर इतनी दूर मतदान करने के लिए नहीं जा पाए।

मैं सदन के माध्यम से मंत्री जी को सुझाव देना चाहता हूँ कि दो पोलिंग बूथ के बीच की दूरी 500 गज से अधिक की नहीं होनी चाहिए। अगर ऐसा किया जाएगा तो वृद्ध, महिलाएं और बीमार लोग आसानी से अपना वोट डाल सकेंगे। इसलिए वोट डालने का स्थान सुविधाजनक होना चाहिए।

चुनाव में अपराधीकरण की काफी बात यहां कही गई। मैं उस बारे में अधिक नहीं कहूंगा। लेकिन मैं एक्जिट पोल के बारे में कहना चाहूंगा। ए.सी. कमरों में बैठकर चुनावों से पहले ही एक्जिट पोल तैयार कर लिए जाते हैं और हमें दूरदर्शन पर दिखाया जाता है कि इस चुनाव के बाद किसकी सरकार बनेगी। पिछले आम चुनावों के पहले इन्हीं एक्जिट पोल वालों ने बताया था कि अगली सरकार बीजेपी की बनेगी। लेकिन आज बीजेपी विपक्ष में बैठी है। मेरा अनुरोध है कि चुनाव हो जाने के बाद एक्जिट पोल की प्रक्रिया शुरू होनी चाहिए।

जिन सुरक्षा कर्मियों को बूथ पर लगाया जाता है उनका आचरण वोटर के प्रति अच्छा नहीं होता। वे वोटर को भयभीत करते हैं। सुरक्षा कर्मियों को वोटरों को धमकाते तक देखा गया है जिससे वोटर वोट डालते वक्त घबरा जाता है और कभी-कभी वोट डालने भी अंदर नहीं जाता है। मेरा आग्रह है कि यहां पर जो सुरक्षा कर्मी लगाए जाएं वे संयम से काम लें और केवल वारदात होने पर ही एक्शन लें। उनका व्यवहार आम वोटर के साथ नरमी का होना चाहिए।

इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

**श्री सीताराम सिंह (शिवहर) :** सभापति जी, सबसे पहले मैं आपको विशेष धन्यवाद देता हूँ कि आप चुनाव सुधार के लिए नियम 193 के अधीन इस प्रस्ताव को लाए हैं। महोदय, इस देश में चुनाव आयोग संविधान के अधीन बना है और संविधान के तहत जिस नागरिक को मतदाता बनाया गया है उस मतदाता को वोट देने का अधिकार है लेकिन प्रतिशत तय करके रोकने का अधिकार संविधान के किस नियम के अधीन चुनाव आयोग को प्राप्त है यह मैं माननीय मंत्री जी से जानना चाहता हूँ। माननीय मंत्री जी जब आप जवाब दें तो बताएं कि इस देश का कौन सा कानून है कि जिसको वोटर बनाया, उनको 62-68-70 प्रतिशत ही पहचानपत्र दिये गये, बाकी के 30 प्रतिशत मतदाताओं को चुनाव कमीशन के आदेश से, वोट देने से रोका गया। मैं पूछना चाहता हूँ कि यह कहां का नियम है?

दूसरा, आपने पहचान-पत्र बनाने का फैसला किया और कहा कि इससे बेईमानी रुकेगी, बोग्स वोट रुकेगा। लेकिन पहचान पत्र बनाने की ड्यूटी किसकी है, यह चुनाव आयोग की ड्यूटी है। मतदाता का क्या कसूर है कि उसको आयोग द्वारा पहचान-पत्र नहीं दिया गया और जो 14वां कानून आपने बनाया और जब वोटर अपना वोट डालने बूथ पर गया तो वहां पर तैनात अधिकारी ने, सिपाही ने पहचान-पत्र न होने के कारण, वोटर को वोट देने से रोका। यह किस कानून के अधीन है?

तीसरा, सारी जगह भ्रष्टाचार की बातें हो रही हैं और चुनाव में भी भ्रष्टाचार की बात हो रही है। कल कुछ सदस्य बोल रहे थे और कह रहे थे कि चुनाव में पैसे के दुरुपयोग को कैसे रोका जाएगा? इसका एक ही रास्ता है और वह यह है कि सरकार ऐलान कर दे कि जो भी चुनाव में पार्टियों की तरफ से कैंडिडेट पर खर्च होगा, वह खर्च सरकार वहन करेगी तो स्वतः ही भ्रष्टाचार रुक जाएगा। यह मेरा सुझाव है और माननीय मंत्री जी बताएं कि मेरे सुझाव पर उनकी क्या मंशा है?

महोदय, चौथी बात मैं आचारसंहिता के बारे में कहना चाहता हूँ। आचारसंहिता के नियम वोटर पर, कैंडिडेट और राजनीतिक दल के लिए हैं। मैं माननीय मंत्री जी से जानना चाहता हूँ कि क्या आचारसंहिता के नियम चुनाव के अधिकारी और पदाधिकारी के लिए भी बनाए गए हैं या नहीं? माननीय सदस्य कह रहे हैं कि नियम बना है, मेरी जानकारी शायद कम होगी, यदि बना है तो क्या चुनाव के अधिकारियों और पदाधिकारियों को आचारसंहिता का पालन करना चाहिए या नहीं? उसका पालन जरूर करना चाहिए, अगर वे नहीं करते तो क्या आज तक कोई ऐसा उदाहरण है जिसमें चुनाव के पदाधिकारी चुनाव के समय गलती करते हैं या पक्षपात करते हैं, उनके विरुद्ध कार्रवाई की गई हो?

महोदय, एक बात मैं और स्पष्ट कर देना चाहता हूँ कि संविधान और लोकतंत्र के तहत इसी पार्लियामेंट में बनाए हुए कानून को लागू करने वाले जो पदाधिकारी हैं और कई जनप्रतिनिधि हैं, जो सारे नियमों और सारे कानूनों को गलत तरीके से इन्टरप्रेट करते हैं लेकिन उसे लागू पर लागू करते हैं। उन्हीं लोगों पर शस्त्र और अस्त्र चलाते हैं और अपने लिए उन कानूनों को भूल जाते हैं।

महोदय, मत के हिसाब से बूथ तो बनाए, लेकिन समय उतना ही रहने दिया, मशीन आपने दी, लेकिन मशीन में कम से कम तीन मिनट लगते हैं। माननीय सदस्य बोल रहे हैं कि दो मिनट लगते हैं, ऐसा नहीं है, तीन मिनट लगते हैं। जब तक पी की आवाज नहीं निकलेगी तब तक वोट काउंट नहीं होगा। ऐसे कर्मचारी बूथ पर प्रतिनियुक्त हैं कि किसी को चश्मा लगाने पर ही दिखाई पड़ रहा है और किसी ने ट्रेनिंग तो ली है परन्तु ठीक से नहीं समझा पा रहा है। इस तरह हमारा वोट नहीं गिना जा रहा है। मेरा सुझाव है कि जैसे पूर्व में था, इसे वैसे ही रखा जाए।

महोदय, पुलिस बल जो प्रतिनियुक्त होता है, उसके लिए नियम यह है कि बूथ लूटने से रोका जाए। क्या यह नियम है कि वोटर को बूथ पर वोट डालने से रोक दिया जाए। जो सुरक्षा बल वहां प्रतिनियुक्त हैं, बिहार में जो घटनाएं घटी हैं, वहां धमकाया गया और बिहार में जो उपद्रव हुआ, साम्प्रदायिकता की बू आई, पुलिस बल के द्वारा तरह-तरह की बातें बोली गईं। यह अफसोस की बात है कि ऐसे अधिकारी और कर्मचारियों पर कोई कार्यवाही होती तो जनता को राहत की सांस मिलती। पैरामिलिट्री फोर्स वहां गईं और वहां साम्प्रदायिकता की बू आई, गरीबों को रोका गया और कहा गया कि निर्दलीय रूप से चुनाव क्यों नहीं लड़े, क्यों किसी अन्य पार्टी से लड़ रहे हो। तुम उसके खिलाफ वोट करो और राजनीतिक पार्टी का नाम लिया गया। ये सब चीजें बिहार में हुईं। आज जो हार जाता है, वही बोलता है, लेकिन सबसे बड़ा दल हमारा है, नगर चुनावों पर हमें जबरदस्ती हराया गया, हमारी अकेले की सरकार बिहार में बनती है। (व्यवधान)

**सभापति महोदय :** कृपया कंकलुड कीजिए।

...(व्यवधान)

श्री सीताराम सिंह : महोदय, मेरा लास्ट प्वाइंट है। बिहार में परिसीमन (व्यवधान)

श्री शैलेन्द्र कुमार (चायल) : महोदय, यह बिहार का मामला है, आप इसे सुन लीजिए, यह बहुत जरूरी है। (व्यवधान)

श्री सीताराम सिंह : महोदय, गंगा के इस पार का वोटर उस पार पर जा रहा है।

जिले को यूनिट माना गया लेकिन पार्लियामेंटरी सीट को एक यूनिट नहीं माना गया। पंचायतों को तोड़ा गया। इस प्रकार कोई भौगोलिक स्थिति नहीं है, कोई सोच नहीं है। 10-10 किलोमीटर के बाद दूसरा क्षेत्र जोड़ा गया है। परिसीमन का जो प्रस्ताव लाया गया है, वह गलत है।

सभापति महोदय, मैं आपके माध्यम से माननीय मंत्री जी को बताना चाहता हूँ कि किस कानून के तहत राजनैतिक दलों को उसका सदस्य बनाया गया है जिन्हें वोटिंग राइट का पता नहीं, जो कमीशन तय करेगा, वही होगा। राजनैतिक दलों का स्वाल क्यों उठाया गया? न किसी की राय ली जायेगी, न किसी को वोटिंग राइट है और कमीशन का जो मन होगा, वह तय करेगा, फिर राजनैतिक दलों की क्या जरूरत है, इसका क्या औचित्य है? मैं मंत्री जी से आग्रह करूंगा कि जब उस चर्चा का जवाब दें, तो मेरे द्वारा उठाये गये बिन्दुओं को स्पष्ट करें।

DR. K.S. MANOJ (ALLEPPEY): Thank you, Sir, for giving me this opportunity. I also thank you for initiating the discussion on electoral reforms. I think, this must be discussed with the utmost importance but I am very sad that while discussing this very important issue, our Opposition friends are not here in Parliament.

Any discussion on electoral reforms should be directed to reinforce and strengthen the people's right to vote without fear or favour, for which, I think, the compulsory voting system should not be accepted.

As many hon. Members have pointed out, the turnout of voters in elections has been declining. The percentage of voting, year after year, is found to be diminishing. The reason for this is because of the loss of faith in election norms and also the fact the political parties as well as candidates are not fulfilling the electoral promises and manifestoes put before the people.

Also, there has been communalisation, criminalisation, and corruption as well as corporatisation of elections. Just as there is communalisation and corruption, nowadays, corporatisation of elections is also taking place because election expenses are increasing day by day. So, the ordinary man is not able to contest elections. In order to avoid this, the proposal put forward by many hon. Members that there should be State funding of elections could be accepted. For this, a corpus fund should be formed and from that corpus fund the candidates should be funded.

There is also the problem faced by non-resident Indians and migrants from different States. In New Delhi, there are around eight lakh to ten lakh Keralites but none of them has got the voting right. Even after residing here for ten to fifteen years, they are deprived of their voting rights. So, the non-resident Indians as well as migrants from one State to another should be given voting rights.

One more issue is that an incumbent Minister or a sitting MP could contest elections but a government servant, if he is in the Central or State Government service, is not allowed to contest elections.

So, a Government servant should be allowed to contest the election after taking leave or so. If he wins the election, he may resign from that post.

Another thing is regarding the delimitation. Now, the delimitation is based on the population. In our area, most of the educated community and forward community have adopted the family planning norms. But there are other societies which have not adopted the family planning norms. Those communities, which have adopted the family planning norms, are penalised nowadays. The limits of the constituencies are based on the population. So, where there is more population, there is loss of seats in certain areas. So, this should also be considered.

So, with these few words, I conclude.

SHRI S.K. KHARVENTHAN (PALANI): Mr. Chairman, Sir thank you very much for giving me this opportunity to discuss about electoral reforms from Gram Panchayat to Parliament level.

The first point that I want to elucidate is about the reserved constituencies. For the past 50 years, there has been no change by way of rotation in respect of a reserved constituency. The maximum period is ten years; otherwise in the reserved constituencies, 70 per cent of the population is affected. They are not able to elect their candidates. In the other remaining constituencies, the people who come under reservation are not able to elect their candidates from their community. So, it must be restricted up to ten years only.

Then, Independent candidates are to be totally avoided. Security deposit is to be raised.

Another important point is with respect to the withdrawal of the nomination. Polling days must be reduced to only one week. It will avoid unnecessary expenditure.

Now, I come to booth identification slips. While they are giving booth identification slips, they are also giving money from Rs. 100 to Rs. 500. So, the booth identification slips must be given by the Government itself at least ten days before to avoid corruption and to fight the money power and muscle power.

We are also appointing security guards and retired persons in the polling booths who are more than 70 years of age. How will they prevent any untoward incident? So, youngsters must be appointed in their place.

Again, Electronic Voting Machines (EVMs) must be compulsorily used.

Lastly, I am strongly opposing the view that charge-sheeted persons should not participate in the elections. I, being the Criminal Lawyer, know that an FIR can be filed by influencing police. He can file a chargesheet under Section 324 or 325 IPC for two-year punishment. I would like to know whether he could be prevented. So, after the judgement, only convicted persons should be debarred from contesting any election. I strongly oppose debarring the charge-sheeted persons to contest the election. These are some of my views.

**विधि और न्याय मंत्री (श्री हंस राज भारद्वाज) :** चेरमैन साहब, आपने अपना भाषण हिन्दी में शुरू किया था, इसलिए मैं आपको हिन्दी में धन्यवाद देता हूँ। आपने इतना कल्याणकारी स्बजेक्ट सदन में उठाया और प्रजातंत्र को मजबूत करने के लिए चुनाव सुधारों पर पूरे देश की तवज्जो दिलाई। आपका मर्मस्पर्शी भाषण बहुत प्रसंद आया। मैं इसके हर बिन्दु पर जवाब देने की कोशिश करूंगा। सदन में काफी माननीय सदस्यों ने बहुत महत्वपूर्ण सवाल उठाये हैं, मैं कोशिश करूंगा कि अपने उत्तर में उन सबका भी समावेश कर सकूँ। लेकिन यदि कोई बात रह जाए तो मैं इस बात की दावत देता हूँ कि जो भी माननीय सदस्य इलैक्टोरल रिफॉर्म्स पर कुछ जानना चाहें या बताना चाहें तो हम सब एम.पी. की एक गोठी भी करा देंगे।

Sir, India is a very vibrant democracy. I will give you how over the years, India has travelled this path, and we have strengthened the democracy from step to step. When the first election took place in India after the Constitution came into force, 173 million voters participated.

In 1957, 193.7 million voters participated. So, their number increased by 20 millions. In 1962, 216.4 million voters participated. So, about 22 million voters increased. In 1967, 249 million voters participated. There was an increase of another about 33 million. In 1972, 274.1 million voters participated. In 1977, 321.1 million voters participated. In 1980, 355 million voters participated. In 1984, 399.8 million voters participated.

Then comes the crucial period. Let us see how there was a big jump in the voters' participation. In 1988, the voting age was reduced from 21 years to 18 years. I remember that my dynamic leader late Rajiv Gandhi took personal interest that we should allow younger generation to participate more in the voting process. So, the voting age was reduced when I was the Law Minister. In 1989 elections, there was a quantum jump in the participation of voters from 399.8 million to 478.9 million. So, this was a major electoral reform allowing our younger generation to participate in voting and decide the fate of the country. Thereafter, the increase continued. In 1991, 514.1 million voters participated. In 1996, 591.5 million voters participated. In the last elections held in 2004, 671.5 million voters participated. So, we have strengthened the democracy in each election held after the first one. ...*(Interruptions)* Whatever may be the reason, whether population increase or anything else, but the voters have participated in large numbers. In the last elections, 67 crore voters participated in the Indian democracy. That is the success of democracy and we should not be pessimistic that our democracy is not vibrant.

There are few areas where we feel difficulties arise in allowing poor people, under-privileged people to cast their votes because of the money and muscle power. These obstacles have to be removed by us by a resolute mind and firm law. So, we are determined to see that the weaker sections, the minorities, the Scheduled Castes and the Scheduled Tribes are allowed to participate in the election process because without their participation, democracy will not be complete. This is my commitment and we are going to do everything to strengthen this process. So, we should not be worried about our democracy.

After all, with all these problems, we are all here. All of you have been elected. You have worked hard for your elections. There have been obstacles which you have pointed out during the debate. All of you have faced some problems, but a determined political party and a determined candidate has to overcome these problems so that he plays a role in the Indian democracy. I personally feel that our democracy is getting strengthened every day with more and more participation of our people, more and more down-trodden people coming to vote and more and more Scheduled Caste and Scheduled Tribe people understanding their rights. They are now able to speak. Their voice is coming to Parliament. The minorities' voice is coming to Parliament. We should be proud of it.

Now, I will take you to some points which have been made. The first major issue which has been pointed out is of state funding. I really appreciate that the money plays a very vital role in elections these days and there is a little danger that

if you allow money power to have more bearing on elections, democracy may have a setback because India is a poor country having more number of workers and peasants. So, we should not allow role of money power into it. Therefore, there was a demand of State funding.

All the hon. Members are aware that a lot of Committees were appointed, but the Committee which discussed this subject was the late Shri Indrajit Gupta Committee. It had made certain recommendations, which were pending. I am very happy to announce that the United Progressive Alliance (UPA) Government in the National Common Minimum Programme (NCMP) has committed itself to consider steps for introducing State funding in elections. This is in our CMP, and all of you are aware that this Government is committed to it. In this connection, the recommendations of the Indrajit Gupta Committee, which deals with items like rent-free accommodation, rent-free telephone with STD facility for political parties, petrol, diesel, printing press, paper, postal stamps, loud speakers, telephones, etc. have to be given to the candidates of the recognised political parties. This is a commitment that I am re-iterating on the floor of the House, and we will definitely speed-up the State funding after having consensus on it. If it can be improved, then we would like to improve it. But, at least, this is the commitment of our Government.

The second very important announcement, which I want to make on the floor of the House, is that the NCMP of this Government is committed to introduce the legislation for 1/3<sup>rd</sup> reservation for women in Vidhan Sabha and Lok Sabha. Accordingly, the Constitution Amendment Bill -- on the lines, which has lapsed for providing reservation of 1/3<sup>rd</sup> seats in the Lok Sabha and Legislative Assemblies -- is under consideration of this Government. These are the two major announcements, which I would like to make here because these are very very important and revolutionary changes to be made in the system of election.

Sir, another very important point, which you have been pleased to touch, and several hon. Members from Bihar have touched is this. There are two vital issues before us. I am very sorry that my friends on the Opposition are not here. I would have loved if they were present here. We would have discussed certain matters, which vitally concern the functioning of democracy because we cannot take democracy for a ride by making wrong type of statements to the innocent masses of this country.

What do you mean by a tainted Minister or a tainted Member of Parliament? Let us all understand the law with regard to this issue. We are a society not governed by whims and caprices. We are a society, which is governed by the rule of law. Every citizen; every person; every State; and every forum has to be governed by the rule of law. What is the law on this issue? All the hon. Members are aware about it, but I would briefly touch this point having regard to the shortage of time at my disposal. There are a few Sections, namely, Section 8, Section 8 (a), Section 9, Section 9 (a), Section 10, Section 10 (a) and Section 11, which deal with disqualification of persons from being chosen or disqualification after being chosen as Members of Parliament. Today, the law of the land is that anybody who is elected as a Member of Parliament is entitled to be a Minister, and if a person is not a Member of Parliament, then within six months he will have to be elected as a Member of Parliament. Otherwise, the person will cease to be a Minister. This is the law of the land. Is there any person who doubts this law?

Now, Section 8 states that if a person is convicted for spreading communal disharmony or for spreading untouchability, and if he is convicted for any amount of sentence, then he is disqualified. Therefore, it deals with disqualification after conviction. Section 8 (a) deals with disqualification on grounds of corrupt practices; Section 9 deals with dismissal for corruption and disloyalty to the Government; Section 9 (a) deals with disqualification for having Government contracts; Section 10 deals with having employment in a Government company or Public Undertaking; Section 10 (a) deals with failure to lodge election expenses;

and Section 11 states that the powers are vested in the Election Commission for reviewing the disqualification. This is the whole gamut of disqualification etc.

I do not know from where the Opposition says, every day, that so and so is a tainted Minister or so and so is a tainted Member of Parliament. I am very sorry to say that they have no regard for their colleagues. Once we are elected as Members of Parliament, we should have regard for each other to some extent. Once we are elected as Members of Parliament, we are not Members of Parliament for one political party, but we are Members of Parliament for the whole country. This is the spirit with which we should perform our duties, and this is the spirit with which we should participate in the debates. If you ignore all this, then it is violation of the rule of law. It means that you have no commitment for democracy; no commitment for rule of law; no commitment for the people of India; and it would be the saddest day if this kind of a picture continues in this House.

This will be retrogression of democracy in the country.

Whoever has participated in this debate, I have noted down the names of all those hon. Members. We had several

Members who spoke. They are: Shri Pawan Kumar Bansal, Shri Ramji Lal Suman, Shri P. Karunakaran, Shri Raghunath Jha, Shri Ilyas Azmi from BSP, who made very good points and I have noted them, Shri Sandeep Dikshit -- the young man spoke brilliantly and I have a lot of hope on him -- Shri Suravaram Sudhakar Reddy, Ch. Lal Singh -- I am not very happy with the way he spoke. However, since he comes from Jammu and Kashmir, his voice is bound to be very vociferous. Shri Varkala Radhakrishnan, Prof. Ramadass, Shri Arun Kumar, Shri Raja Ram Pal, Shri Ram Kripal Yadav, Shri Tufani Saroj, Shri Asaduddin Owaisi -- the young Member from the MIM, whose father was my friend. I am very happy that he has come to Parliament also spoke. Dr. Sujan Chakraborty, Shri Lal Mani Prasad, Shri V. Kishore Chandra S. Deo -- my dear friend has written a book on electoral reforms -- also spoke. Before I came here, I read his book. He always speaks eloquently and his points have been noted. Dr. M. Jagannath, Kunwar Manvendra Singh, Shri Sita Ram Singh, Dr. K.S. Manoj, my friend, Advocate Kharventhan from Chennai, and a few other friends also spoke. If I missed someone, they may point out and I will be happy to acknowledge his or her contribution to the debate.

Sir, there are a few points which have been listed in your own speech. I will give more emphasis to it because you have made such a brilliant speech which I have not heard for many, many days in the recent years. You were right that we are governed by a Constitution, whether it is the Election Commission, a candidate, or a political party. Nobody can use his whims in the matter of decision-making. Nobody should have any whims; and everything should be covered by law.

I say with all the emphasis at my disposal that, sometimes, the Election Commission goes out of the crease, and that is where the problem arise. For example, recently, notices were given to political parties saying that, 'if you do not do this, we are going to cancel your symbol.' How can it be done? A political party has been allotted a symbol because it is a recognised national political party or a State party. The party has a right, and what has the model code of conduct to do with the reservation of a symbol? These matters are decided under Para 15 of the Symbol Reservation Rules, whereas the model code of conduct has still no statutory backing because the model code of conduct is only an ideal that political parties shall not do this or do that. In the shape of model code of conduct, the election process has become very humiliating. No Minister is allowed to go anywhere. The Ministers are turned out of bounds; and MPs are turned out of bounds. It is certainly a bad picture of democracy, and we will not appreciate this. I promise to you that I will bring a legislation on this.

I would not like any of the functionaries in the participation of democracy to use caprice, to use *mala fide*, or for that matter, whims in these matters. They are to be defined precisely by which a neat and clean election process is maintained. I promise this to you.

Coming to election observers, they are not super-bosses; they are there to see that proper election takes place. I concede that it is only the Election Commission which has the constitutional mandate to hold fair and free elections. There is no other agency in our country. Our founding fathers have given this power to the Election Commission. We should all cooperate and respond to the needs of all so that fair and free elections take place. If there is no free and fair election, the losers are the voters, who are our masters. We cannot say that they should be deprived of their legitimate right.

I may also hasten to clarify here that many people say that they are not allowed to vote because they do not have the identity cards. As the law stands today, I can refer to the section, a man who has his name in the voters' list, is entitled to cast vote, a statutory right to vote. All these aberrations ...(*Interruptions*) There is no question of denying him the right. He has a statutory right. He can insist and cast his vote. All these Election Commissioners have been reducing this exercise of franchise by various methods.

AN HON. MEMBER: They are not allowing.

SHRI H.R. BHARDWAJ: What are the political parties here for? We should come and discuss and see that the poor people are not threatened, they are not subjected to all kinds of unnecessary and unfair checks. That is our duty. But that requires a very serious consideration by political parties.

We accepted the Identity Cards. What is an Identity Card for? Let me tell you, I have been as a worker in the polling booth. I know about this ailment. What is an Identity Card for? The question is, when a voter goes into the polling booth the opposite polling agent can question the identity of a voter. In that case you have to deposit Rs.2 -- in my time it was Rs.2 -- and challenge them. After it is objected to, then the question of identity comes. Otherwise, in a village everybody knows who is who. Unless the polling agent says that he has a doubt about the identity of a person, there is no question of not allowing anybody to vote. Once a voter goes and says that he is so and so and that his father's name is so and so, he has to be allowed to vote unless there is a question of his identity. I am very sorry to say that we have been, one after the other, following the wrong course of identity.

The robust common sense of the voter in this country seeks, I have stated in my earlier statement, successful democracy. People exercise effortlessly their right to vote, if we do not interfere with their right. In the Panchayats, the local people have organised elections in a smooth manner. I have never seen this in elections, except in the last one decade. In earlier elections, in my youth, I have seen such fantastic way of participation. People used to go singing songs of freedom and cast their votes just like going on a picnic. Now, it is tension all around. Why has this tension come? We should share some part of it ourselves also.

There are complaints of booth-capturing. I am very sorry to say this, there are complaints. Some of the hon. Members do complain whenever discussions take place. We should all stop this. This is total negation of democracy. If a political party or any candidate resorts to booth-capturing, she or he is not entitled to be a Member of Parliament because you are playing a fraud on your own voters. You should see that maximum voters go and cast their votes. A free and frank exercise of franchise alone will make you a Member of Parliament. That is the type of democracy that is envisaged. So, all political parties should sit together and see.

This is a recent ailment. If you are a popular MP, you need not resort to booth-capturing. If your political party has a following, you should not resort to booth-capturing. But, it is a fact of life. We do recognise it. I have the statistics with me because I changed the law in 1989 when countermanding of election on account of booth-capturing was introduced as a special section in the Representation of the People Act. This is a fact of life.

There are other ailments like use of communalism. There is rampant use of communalism in our electoral process. We raise the issue of temple, we raise the issue of mosque, we raise the issue of gurudwara. In the name of religion, in the name of Ram, in the name of Rahim, all these things are happening. This is a solid corrupt practice. Section 123 does not permit it. Therefore, all political parties should decide that you win on merits. Why do you resort to temple-building? What has the temple-building got to do with elections? This is where we have divided the society dangerously. So dangerously that we do not see eye to eye with each other in many matters. Dividing the society either on macro level or micro level is very dangerous for the unity and integrity of this country. What kind of governance we will have if our society is divided? Governance means unifying the pluralistic society we have got, a fantastic unity in diversity which the world over you cannot see. This is where we should concentrate. This booth-capturing must be stopped. After all we are responsible for giving power to the Election Commission that it can countermand, it can adjourn, it can prepone or postpone elections and do all types of things.

We have heard about this kind of phenomena. These are not in all parts of the country. In some parts of this country, there is absolutely no such complaint. We should give credit to those people. Wherever this exists, of course, you want this. I receive so many requests to deploy BSF and to deploy CRPF. Otherwise, local police should be adequate.

I am telling you with my long experience of dealing with electoral laws that there are complaints against the police. Yesterday, one hon. Member pointed out that the local *Daroga* asked to cast vote for a particular candidate. This is the fact of life. We cannot deny it. We are taking the help of the political parties and candidates. I am very sorry to say that this type of election is not a success of democracy where you ask the presiding officer that you do "tick, tick, tick" or you ask the police officer to threaten people. This is hardly any part of democracy. If your own people like you, show affection for you and when they go for voting, you deny them voting at a particular point with the help of police and with the help of presiding officer. You tell the police and the presiding officer that they should not be allowed to vote and in their place, you or the police office or the polling officer exercise their franchise. This is our job. We should not allow it. We should not divide also.

Yesterday, Prof. Ram Gopal Yadav, my very dear friend, had a genuine complaint. Wherever there is a particular community, you say that, do not deploy the presiding officer from that community, do not deploy the Observer from that community. This is where we have landed this country. We are responsible for casteism, communalism, favouritism and nepotism. We are the Members of Parliament. We deal with the fate of the people. So, we should make a resolution but I would like that when the whole House is in Session, when the whole House is participating, only then, can you have a proper and decisive debate on this issue. A fragmented Parliament will have no effect. I am saying this with great humility at my command that Parliament should be united.

There was a question recently that Judiciary is overtaking Parliament and Parliament is suffering. Legislative prerogatives of Parliament are going down. There is not doubt about it. If Parliament is not one, a divided House cannot deal with its own prerogatives. Parliament has to be one. United decision of Parliament will keep our prerogatives, our privileges and our freedom in tact. Otherwise, any institution would like to usurp the sphere of the other. This is the natural process. If there is a vacant space, water will go there. We have to keep the demarcated powers between the Judiciary, the Legislature and the Executive in proper places. Montesquieu's theory of separation of power must be respected and obeyed. Our forefathers have no such conflict except one case of Uttar

Pradesh where the Speaker and the Chief Justice had a confrontation. But that was resolved even by this House. This is such a powerful House. But slowly and steadily this House has lost several of its prerogatives after *Kesavanand Bharati*'s case. Let us resolve that we should not allow Parliament's power to be abrogated or usurped by any other institution. We are all one on this.

I would humbly say - I am a Minister - I cannot criticise the Election Commission. Hon. Members have made several very valid points that we should not allow super bosses over us. We should have public servants doing their duty rightly. We should also see that undue threat and intimidation of voters should not be there. I have noted all your points.

What happened in Bihar? Shri Lalu Prasad's political party, the RJD, had several complaints. So also other parties. They had horrible experience that as to how the officers work with a biased mind. The result would obviously be detrimental to elections. At this moment, I have noted your points. Booths should be nearer to the population, must be closer to the population so that infirm, aged citizens cast their votes without any trouble. Then, wherever the Scheduled Castes and the Scheduled Tribes, weaker sections and minorities live, I think, we should have mobile booths. I remember in one elections, we sent mobile vans to the Schedule Castes and the Scheduled Tribes in some parts of UP for casting votes in their *mohallas* or streets. That is the proposal we will discuss with the Election Commission. My own view is that the polling booths should not have more than a 1,000 voters. The distance between pooling booths should be less than 1,000 meters so that within the time allotted for voting, they can vote.

If it is 500 to 1000 voters, we will discuss and the time also can be increased after discussion. I am again reminding you that these are matters of importance for which we will develop political consensus.

Now, I come to the proposals which have been received from the Election Commission. The Election Commission has emphasised that too many affidavits are being revived and they should be consolidated in Form 26. This is a reasonable suggestion and we are applying our mind to it.

About avoiding frivolous candidates, the Election Commission has suggested that we should increase the security deposit to Rs.20,000 for candidates to Parliament and Rs.10,000 for candidates to Assemblies and fifty per cent reduction in the amount of security deposit for Scheduled Castes and Scheduled Tribes candidates.

Then comes criminalisation of politics. I am very sorry to say that I cannot accept the proposition, however fanciful it may be, that we disqualify a person against whom a charge-sheet has been filed or who has been charge-sheeted by a court of law. I have been for forty years at the Bar. I know, how easily it is to pick up an opponent, get a charge-sheet filed and see that the Court frames the charge in the next hearing. The basic concept is, there is a presumption of innocence all over the world. Even in the European Human Rights Court, they have said that an accused is entitled to be presumed innocent unless he is proved to the contrary. My friends will bear me out that this presumption of innocence was sought to be diluted in Britain. And the European Court came heavily on the British law that you cannot dilute the presumption of innocence; otherwise there will be no chance of defending, there will be no fair trial.

I firmly rejected the proposals that a charge-sheeted person should be disqualified. But I am saying with humility that we should discuss these issues. I remember, the Leader of the Opposition sat in a meeting. We were in the Opposition then and they were in the Government. The Law Minister was also there and we discussed this issue threshold whether we should disqualify a person. This is a serious matter. We would like to say that we want to improve the image of our Members of Parliament and Ministers. But they are very popular figures. A person who has 25 or 30 Members of Parliament elected from one State, one cannot ignore his merit. They say that we should disqualify them because they do not like them. There is so much of opposition. It is not a fair treatment to our colleagues. I want that this House should debate this. This must go on record. Our Prime Minister is very much concerned about probity in public life. And probity in public life is such a thing on which there can be no two opinions. This must be discussed. But with whom should we discuss? They say that we should do this otherwise they would not participate. Is this the way to function in a democracy? We should invite our friends. If they want to contribute on probity in public life, I have my brief ready. My Prime Minister has given invitation. We can discuss everything so that our democratic institutions are strengthened. But they do not want it to be strengthened, rather it is being deflated. If you puncture a tyre of a vehicle, how can it move? We cannot paralyse the House for any reason. This is our House. It is not a charity of political parties. They should come here, they should criticise us, the Government. We would like the criticism; we would like their participation. We would try to answer the questions. If we cannot, we will improve ourselves. They are not doing that way.

Therefore, I am not very happy with this debate. We are all one side of the party. I would again like to have this debate. I would like that the issue of criminalisation must be discussed and accepted by all major political parties. Otherwise, there will be always an arrow of injustice that they were not heard; their arguments were ignored.

Therefore, after almost 55 years of democracy, the full circle is coming. More and more under-privileged people will come to Parliament; more and more backward class people will come to Parliament. We should accept this as success of democracy rather than say that they are not proper persons and disqualify them.

### **18.00 hrs.**

You may not like them. But that is a part of democracy which Mahatma Gandhi, Nehruji and Dr. Ambedkar gave us.

**स्भापति महोदय :** इस आइटम के समाप्त होने तक सदन की कार्यवाही बर्दाई जाती है।

SHRI H.R. BHARDWAJ: I am trying to speak as fast as I can at this stage. I am saying that we should allow every political party, which is registered, full participation and sharing. The more minority community, Scheduled Caste, Scheduled Tribe people come, the more happy they will feel. Otherwise what happened in our country when under *Brahminical* order, people were not given rights, Buddhism came to this country, Jainism and the Sikhism also came. So, our society will not tolerate injustice. It will revolt. We do not want to give any cause to any community, to any caste or ethnic group. Our smallest microscopic minority, that is Parasi community, is working so much for the country. What an outstanding contribution they have made! We should respect all of them. Therefore, we should do this. We should allow full functioning of democracy. Political parties have a duty because if they accept black money and spend that money, whom are you criticising? You should not accept it.

The Election Commission has recommended that there should be an audit of political parties. Then there is also a proposal to restrict contest on one seat alone. That also is under consideration. Many hon. Members have spoken about exit polls and opinion polls. In my view, there should be a complete ban on them till the polling is over. It is because it favours the rich. He can buy the television and print media and say them: You put that; you say that we are winning. The poor people get misguided. So, that is also under consideration.

Then comes the issue of surrogate advertisements in the media. They should also be controlled. We are studying them. There is also a proposal of negative voting. This is under consideration. We will be governed by the views of the House whether to introduce negative voting or have positive voting. My view is that positive voting alone should be there. India is so vast a country. We have 67 crore participating in elections. We should allow them to do positive work. I personally feel this. Then there is a proposal to appoint an appellate authority. I think that this is a good suggestion. We can consider it. The issue of compulsory maintenance of accounts by political parties and their audit was also raised. On this, political parties can decide.

Then on the sharing of TV and cable network, we are for sharing. Rules and regulations can be framed for it. We will go by that decision. As regards composition of Election Commission and the Constitutional protection, at present, there is only one person who is protected under the Constitution, that is, CEC. A proposal is pending. Earlier Government did not favour that proposal and it is pending before us.

Regarding expenses of the Election Commission to be treated as 'charged', I think, the money is given to the Election Commission whenever it is asked for. There is no problem in this.

Then comes the point of transfer of electoral officers. This is the point which is the real cause of trouble. People are picked up who know nothing of the area. They go as bosses, occupy guest houses and play upon this. We should have respect for both sides – for Observers or election officers as well as for the Members of Parliament. They are the men of experience following the people. So, both should serve. The presiding officers and others should be totally neutral. If they are outside observers, they should be such that they do not interfere with this. We are trying to strengthen this aspect as much as possible. We are giving our attention to them.

There are couple of other matters on anti-defection law, on which various Members have spoken. When I first moved a Bill in 1985, I proposed that there should be a complete ban on defection. For whatever reason, the view gained ground that in democracy, ideological splits do take place in political parties.

So, we kept it as one-third. But how it was used – you all know it very well. Earlier there was a consensus that it should be done away with. It was done away with. Now, defection is a serious malady. It leaves nothing in a Member of Parliament. '*Aya ram, gaya ram*' are bad names. Elected representatives should avoid it; people's representatives should avoid being called by '*Aya ram, gaya ram*'. It is for us to decide what type of more provisions to be included to insulate defections. I do not think anybody should enjoy power by defections. This is a serious infraction on democracy. We should put an end to it.

You should stick to your political party. You swear in the name of your political party; you swear in the name of your leader; you take money from your political party and then, for your own selfish gain, one fine morning, you say 'good bye'. That is not the way life should be. On Anti-Defection Law, we would like to firm up further.

Then there is the point about common voters' list. Our next proposal is this. All these identity cards and others will be useless, once we have the voters' list with the picture on it. We are arranging to have the picture of every voter in the rolls of the voters' list. So, there will be no question of asking for identity cards and others. These will be very easy with the application of information technology. Such a voters' list does exist in some parts of the world. So, this kind of a voters' list will be good.

Then, there is a point about updating the voters' list. You cannot blame the Election Commission for this. It is your duty to check up your names in the list before election. Every political party, in my days, used to check up the list before the elections. We knew how many voters have migrated, how many voters are not residing in a particular locality, etc. We had a separate list for that; the political parties are not doing their job. They are relying on Election Commission now. Election Commission has two methods of updating – one is a general enumeration that takes place where teachers are deployed; and the other is the general revision that takes place every year in the month of January. This is the type of arrangement that we do. But there is always a possibility for deletion. If there are certain deletions, you should be vigilant. I see that sometimes the names of minorities, the Scheduled Castes and the Scheduled Tribes are deleted. They know their voting pattern and their mindset. So, they are trying to delete their names. But it is your statutory right under law that you protect your name in the list, and that you cast your vote. On this, we cannot impose compulsions.

The right to vote is a statutory vote. Everybody has a right and everybody must exercise the franchise. That is a privilege which you get in every General Election or Bye-Election. You should educate the society on this. Making of law on this will not be of much use. I have shown the voting pattern right from Independence. The voting pattern has been in the ranges of 61 per cent, 51 per cent, 61 per cent, 67 per cent, etc, and in any case, not more than 70 per cent. I am not for countermanding elections when there is more percentage of voting in a particular area. You may be such a popular leader that everybody would like to vote for you. So, the Election Commission cannot countermand it only on grounds of excessive voting. We will see how we can remedy this type of a malady. These are the few areas of worry.

Fortunately, in the recent election that took place in 2004, we had such a situation; we will definitely like to sit with the Opposition and with all other political parties; we will try to eliminate Independents. They are making the ballot paper unusually unwieldy. Earlier we said that their proportion should be increased. That was done. Then the order of their names in the ballot paper was decided that first the names of the political parties and then theirs.

Besides this, we will also think, if anything else could be done. But please remember that in the eyes of law, everybody is entitled to contest elections. He may not come through the political parties. We know it very well that Independents are being elected still and in large numbers. When somebody is not given a ticket, he tends to fight the elections independently. Nowadays, Independents decide the Governments. Every political party says that we must muster the support of the Independents.

So, we will have to study the law on this – how we can restrict their entry. This is a wider question. Sir, you have touched the core. Now, this House should continue with this and political parties will be given invitation by the Government to present their views and we will be too happy to do that. This Government, as I said, is committed to this. Neat, clean and the highest standards of probity in public life are likely to be established, if we are all sincere.

I thank all the hon. Members and thank you, Sir, particularly, for having accommodated me today. If there is any clarification, I would be too happy to reply to that.

**स्भापति महोदय :** आमतौर पर माननीय सदस्यों को मालूम है कि सामान्यतः माननीय मंत्री जी के जवाब के बाद कोई स्पष्टीकरण पूछने की परम्परा हमारे यहाँ नहीं है, परन्तु राष्ट्रीय महत्व का विषय होने के कारण इस विषय पर विशेष अनुमति के तहत मैं कुछ माननीय सदस्यों को, जिन्होंने हाथ उठाए हैं, जो उत्सुक हैं, बोलने की अनुमति दे रहा हूँ, लेकिन यह पूर्व उदाहरण नहीं बनेगा।

**श्री रामजीलाल सुमन (फ़िरोज़ाबाद) :** महोदय, माननीय मंत्री जी ने बहुत अच्छा जवाब दिया है, मैं इसके लिए उनको धन्यवाद देता हूँ। चुनाव सुधारों पर दो दिनों तक सार्थक चर्चा हुई लेकिन एक सफल अधिवक्ता के तौर पर आपने अपने पक्ष की बहुत अच्छी पैरवी की है। मैं आपकी मर्यादाओं को जानता हूँ, इसलिए चुनाव आयोग की आपने आलोचना नहीं की है। यह बात अपनी जगह सही है, लेकिन जिस तरह के मामले प्रकाश में आए हैं, उनसे चुनाव आयोग जैसी संस्था की विश्वसनीयता पर स्वाभाविक निशान खड़ा हो गया है। पिछले लोकसभा और विधानसभा चुनावों के बारे में जैसा कि आपने बताया कि जिस व्यक्ति का मतदाता सूची में नाम है, उसे मतदान का अधिकार है, लेकिन पिछले लोकसभा और विधानसभा चुनावों में मतदान केंद्रों से मतदाताओं को बिना मत डाले वापस किया गया, उनको वोट नहीं डालने दिया गया और वे अपने मतदाताधिकार का प्रयोग नहीं कर पाए। यह एक बहुत ही गंभीर मामला है। मैं निश्चित तौर पर कह सकता हूँ कि मतदान का प्रतिशत इससे कहीं अधिक अच्छा हो सकता था अगर इन लोगों को मत देने का अवसर दिया गया होता। लेकिन मतदाता पहचान पत्र के अभाव में उनको मत डालने नहीं

दिया गया, जबकि दूसरे लोगों ने यह पुष्टि की कि यह वही आदमी है जिसका मतदाता सूची में नाम है। मैं आपसे कहना चाहूंगा कि लोगों को मतदाताधिकार से वंचित न

किया जा सके इसके लिए कानून बनाना पड़ेगा। मैं आपसे यह भी आग्रह करना चाहूंगा कि चूंकि जल्दी ही कुछ राज्यों में विधान सभा के चुनाव होने वाले हैं, तत्काल सभी राजनीतिक दलों की बैठक बुलाकर इस विषय पर चर्चा किए जाने की ज़रूरत है ताकि अच्छे सुझाव आ सकें।

**SHRI P. KARUNAKARAN (KASARGOD):** Within the permitted time the hon. Minister has answered most of the questions. I think we need to have some more discussion on this issue. As some of the States are going in for elections next year, the delimitation aspect is covered only in a few States. May I know from the hon. Law Minister whether the law permits or whether the Government thinks that the next elections that are going to be held can be held with the existing constituencies or the delimited constituencies?

**श्री राम कृपाल यादव (पटना) :** सभापति महोदय, यह दुर्भाग्य की बात है कि जब भी मैं बोलने के लिए खड़ा होता हूँ व्यवधान शुरू हो जाता है। मंत्री जी ने अपने जवाब उन बहुत सारी बातों को स्वीकार किया है जो भी माननीय सदस्यों ने कही हैं और खास तौर पर जो श्री देवेन्द्र प्रसाद यादव जी ने कही हैं। यह बहुत ही महत्वपूर्ण प्रश्न है जैसे - वोट प्रतिशत के बारे में कहीं कानून में कोई प्रावधान नहीं है कि वोट प्रतिशत 63 प्रतिशत, 65 प्रतिशत या 67 प्रतिशत कितना हो। आपने भी इस पर कोई प्रकाश नहीं डाला है। आपने भी स्वीकार किया है कि कुछ पदाधिकारी मनमाने ढंग से काम करते हैं। ऐसे पदाधिकारियों के खिलाफ आप क्या कार्यवाही करेंगे, इस पर भी आपने कोई चर्चा नहीं की है। मंत्री जी, जिन पदाधिकारियों ने, खास तौर पर बिहार में अपनी सीमा लांघ कर कानून से उमर कानून बनाकर नियमावली और संविधान की धज्जियां उड़ाई हैं। वैसे पदाधिकारियों के खिलाफ आप क्या कार्यवाही करेंगे? देवेन्द्र प्रसाद यादव जी ने, जो अभी आसन पर विराजमान हैं, चुनाव आचार संहिता की खामियों और त्रुटियों में सुधार हेतु सर्वदलीय समिति बनाने की बात कही थी, ताकि इस सम्बन्ध में कोई निर्का निकल सके। आपने जवाब में उसकी चर्चा की है, लेकिन एक ठोस कमेटी बनाएं, क्योंकि जितनी हमने चर्चा इस विषय पर की है, उस समस्या का कोई समाधान निकल सके और ऐसे अधिकारियों पर अंकुश लगाया जा सके, जिसे स्वस्थ और निष्पक्ष चुनाव हो सकें।

**डॉ. राजेश मिश्रा (वाराणसी) :** कानून मंत्री जी ने करीब-करीब हर बिंदु पर प्रकाश डाला है। लेकिन एक बिंदु था, जिस पर पूरा सदन पिछले कई दिनों से चिंतित है कि आज वोटिंग का प्रतिशत कम होता जा रहा है, जिसे लगता है कि लोगों की लोकतंत्र में रुचि कम होती जा रही है। आप शायद यह पाइंट मिस कर गए या फिर बाद में इसका जवाब देंगे। जिस तरह से संविधान के तहत हमारी फंडामेंटल ड्यूटीज चिन्हित की गई हैं, उसी तरह से क्या हमारी यह फंडामेंटल ड्यूटी भी चिन्हित नहीं की जा सकती? यदि फंडामेंटल ड्यूटीज में इसे चिन्हित किया जाए, तो उससे लोगों में लोकतंत्र के प्रति रुचि भी पैदा होगी और वोटिंग का प्रतिशत भी ज्यादा होगा। इससे लोगों को अपने कर्तव्य का भी पता चलेगा। जैसा हम लोगों का कर्तव्य है कि हम यहां सदन में जनता द्वारा चुनकर आए हैं, भले सत्ता पक्ष में हों या विपक्ष में, तो हमें अपने कर्तव्य का पालन करना चाहिए और सदन में बैठना चाहिए। जो लोग सदन का बहिष्कार करते हैं, उन्हें सदन में बैठना चाहिए, यह भी फंडामेंटल ड्यूटीज में शामिल किया जा सकता है।

**श्री विक्रमभाई अर्जुनभाई माडम (जामनगर) :** मैं आचार संहिता पर कुछ कहना चाहता हूँ कि वह कैसे लागू की जाए। मैंने 1998 में चुनाव लड़ा था। उस समय मेरे क्षेत्र में कई बैनर लगे थे। पता नहीं किसी आदमी ने एक बैनर सरकारी जगह पर लगा दिया। इसके कारण मेरे पर केस दर्ज हो गया और सात साल से मैं उस केस के सिलसिले में धक्के खा रहा हूँ, अभी तक वह खत्म नहीं हुआ है।

**सभापति महोदय :** मंत्री जी के संज्ञान में आपका बिंदु आ गया है।

**श्री इलियास आजमी (शाहाबाद) :** पिछले 15 साल की एक्सरसाइज में यह साबित हो चुका है कि हम सभी को फोटो पहचान पत्र नहीं दे सके। लगभग 60 प्रतिशत लोगों को ही अर्बों रूप खर्च होने के बाद ये जारी हुए हैं। इसलिए इस व्यवस्था को खत्म कर देना चाहिए। जो व्यवस्था पहले होती थी कि अगर किसी व्यक्ति पर शक है कि यह वह व्यक्ति नहीं है, तो वह दो रूपए जमा कराकर चैलेंज वोट दे देता था, उसी को दोबारा शुरू किया जाए।

**SHRI PRABODH PANDA (MIDNAPORE):** I am thankful to the Minister as he has covered almost all the points but I would like to raise one point. He has already committed in this House itself that he is considering the issue of reservation for the women in the Assemblies and Parliament. May I know from the Minister whether he is contemplating to bring this amendment to the Constitution in the coming Monsoon Session?

**सभापति महोदय :** अब कानून मंत्री जी जवाब देंगे।

**श्री हंस राज भारद्वाज :** श्री रामजीलाल सुमन ने अत्यंत ही महत्वपूर्ण सवाल उठाया है।<sup>â€</sup>(व्यवधान)

**सभापति महोदय :** अब और कोई माननीय सदस्य नहीं बोलेगा।

<sup>â€</sup>(व्यवधान)

**सभापति महोदय :** मंत्री जी के अलावा और किसी की बात रिकार्ड में नहीं जाएगी।

...(व्यवधान)...

**SHRI H.R. BHARDWAJ:** I am not yielding now. ...(*Interruptions*). If they are not interested, I will not oblige them. इस सदन में ऐसा पहली बार हो रहा है कि मंत्री के जवाब के बाद फिर बहस शुरू हो जाए। इन्हें समझा दिया जाए कि ऐसा नहीं होता है। माननीय सदस्य ने बड़ी महत्वपूर्ण बात कही है।

कुछ सम्माननीय सदस्यों ने महत्वपूर्ण बातें कही हैं। माननीय रामजीलाल सुमन जी ने इलेक्शन कमीशन के रोल का प्रश्न उठाया है। संविधान के तहत हमने पूरी जिम्मेदारी और किसी को नहीं दी है केवल इलेक्शन कमीशन को दी है। उनकी संवैधानिक जिम्मेदारी है और वोटर लिस्ट भी वही बनवाते हैं, अपना पैरा-फरनैलिया स्टेट्स में बनाते हैं और उनकी संवैधानिक जिम्मेदारी है वोटर लिस्ट बनाने और प्री और फेरर इलेक्शन कराने की। यहां तक की कोर्ट ने भी कह दिया है कि जब इलेक्शन शुरू हो जाते हैं तो हम दखल नहीं देंगे। इसलिए सब माननीय सदस्य सोच कर चलें कि इलेक्शन प्रोसेस और इलेक्शन संबंधी सारी कार्यवाही सम्मानित इलेक्शन कमीशन को दी है। आप लोगों ने जो चर्चा की है यह पहली बार मैं सुन रहा हूँ। मेरे भी कुछ मतभेद पर्सनली टीएन सेशन साहब से थे। हम लोगों ने कुछ कार्यवाही ऐसी की, जिसको हमने बाद में कंडीशन ऑफ सर्विस ऑफ इलेक्शन कमीशन की बनाकर दुरुस्त कर दिया। इलेक्शन कमीशन पर अविश्वास नहीं किया जा सकता। आपको चाहे यह बात पसंद आये या न आये, वह एक संवैधानिक अदारा है और उसको मजबूत और इंडिपेंडेंट बनाना हम सब का कर्तव्य है। अगर उसमें कुछ

खामियां हैं तो हम उनको कानून बनाकर दूर करेंगे और वह चीजें आप लिखकर दीजिए। जब आपकी पॉलिटिकल पार्टी को दावत देंगे तो अपने नेताओं के जरिये आप आपनी बात दीजिए। हम आपको बुलाएंगे और डिबेट कराएंगे और उसके बाद देखेंगे कि इलेक्शन कमीशन के सम्मान को कायम रखते हुए, उसकी परम्परा को कायम रखते हुए हम उनसे गुजारिश करके कहेंगे कि आपके प्रति राजनैतिक पार्टियों की श्रद्धा होना जरूरी है, आपका मान-सम्मान होना जरूरी है, तो आप कोओपरेट करें और पॉलिटिकल पार्टीज को स्वयं भी बुलाएं। साथ ही यह भी कहेंगे कि वे आपकी बातों को सुनें। यही देश की राजनीति की परम्परा है और यही हमारे में एक दूसरे पर विश्वास की परम्परा है। मिनिस्टर पर दबाव डालो, इलेक्शन कमीशन पर दबाव डालो, यह

\* Not Recorded.

परम्परा नहीं है। एग्जिट पोल को रोकने के लिए पिछली सरकार ने कोशिश की थी। एटोर्नी जनरल ने ओपिनियन दी थी कि यह फ्रीडम ऑफ एक्सप्रेशन से होता है लेकिन फिर भी इलेक्शन कमीशन ने एक सुझाव दिया है कि हम इसको स्टैच्युटरी कोई प्राविजन लाकर कानून बनाकर इसे रोकेंगे। मैं आपको आश्वासन देता हूँ कि जो भी कार्यवाही होगी वह आपको बता दी जाएगी और आपसे पूछ कर होगी। डिलिमिटेशन का काम डिलिमिटेशन कमीशन बना रहा है, मैं संसद में उसके बारे में कोई बयान नहीं दे सकता हूँ क्योंकि वह अलग बॉडी है। इलेक्शन कमीशन से मिलकर हर राज्य में डिलिमिटेशन्स हो रहे हैं और जहां-जहां कंपलीट हो गये हैं उसकी जानकारी आपको वही दे सकते हैं। आप डिलिमिटेशन कमीशन से मिलकर पूछ लीजिए कि वर्ष 2006 के चुनावों में कहां-कहां डिलिमिटेशन होगा? कानून बनाने का पूरा प्रयास है और मैं इस चीज से खुद चिंतित हूँ कि ज्यादा वोट पड़ें तो अच्छी बात है, 70-80 प्रतिशत मिलें तो बहुत गर्व की बात है लेकिन बूथ कैपचरिंग करके 100 प्रतिशत पोलिंग कराना चाहते हो तो यह नहीं होगा। मैंने अपनी पहली स्पीच में कहा है कि यह नहीं होगा कि खाली 70 प्रतिशत को आप टारगेट बनाएं। इसको भी मैं एग्जामिन करूंगा कि आपकी ज्यादा वोट हम प्रोटैक्ट करें। यह मेरे भाई जो कह रहे हैं कि जनता में वोट देने की इच्छा की कमी हो गयी है तो कोई कमी नहीं हुई है। मैं आपको पहले इलेक्शन से लेकर अब तक का प्रतिशत बता सकता हूँ। पहले इलेक्शन में 61 प्रतिशत वोट पड़ा था, दूसरे में 62 प्रतिशत हुआ और उसके बाद घटकर 56 प्रतिशत हो गया, फिर बढ़कर 61 प्रतिशत हो गया, फिर फिफ्थ राउंड में 55 प्रतिशत हुआ। गर्मी में दो-चार प्रतिशत वोट घट जाता है, अच्छा मौसम हो तो प्रतिशत बढ़ जाता है। छठे इलेक्शन में 60 प्रतिशत हुआ, फिर सातवें इलेक्शन में 56 प्रतिशत और आठवीं लोक सभा में 63 प्रतिशत हुआ, नौवीं लोक सभा में 61 प्रतिशत हुआ, फिर 56-57 प्रतिशत रहा और फिर 62 प्रतिशत पर आया और 62 प्रतिशत के बाद अब 58 प्रतिशत है। यही वोटिंग है और इसके बहुत सारे कारण हैं। जो कहते हैं कि 100 प्रतिशत वोटिंग करा देंगे तो यह तो आंकड़े कहते ही नहीं हैं। अपने लिए आप करा सकते हैं लेकिन पूरे देश में जो प्रतिशत आती है वह यही आती है और इसमें कोई फिफ्र करने की बात नहीं है। जब जनता में जागरूकता आयेगी तो और लोग वोट देंगे।

मैं उन लोगों को सजा देने के खिलाफ हूँ। मेरा मत यह भी नहीं है कि जनता को कुछ मत दो और उनके खिलाफ कानून और बना दो कि आप कंप्लेसरी वोटिंग करो नहीं तो आपके खिलाफ यह होगा। यह जनता की परंपरा के विरुद्ध है।

इसके अलावा इलेक्शन स्टाफ के संबंध में शिकायतें की गई हैं। आप यह जानते हैं कि सरकार के किसी भी अधिकारी, किसी भी कर्मचारी को सजा दे सकते हैं। जब इलेक्शन हो जाता है, सारा स्टाफ डेपुटेशन पर चला जाता है। चाहे राज्य सरकार हों या जिस तरह से आपकी सरकार थी, श्री लालू प्रसाद जी की खुद की सरकार थी, खुद उनके डीएम उनके खिलाफ हो गए, उनके पुलिस अधिकारी उनके खिलाफ हो गए। इसलिए आप यह सोचकर चलें कि अफसरशाही न्यूट्रल है, वह समय के अनुसार बदल जाती है। आप अपना बल मजबूत करें, अपने काम को अच्छे ढंग से करें और जनता में निठा लाएँ। (व्यवधान)

श्री राम कृपाल यादव : महोदय, इलेक्शन कमीशन के अधिकारी न्याय नहीं करेंगे तो। (व्यवधान)

श्री हंस राज भारद्वाज : इलेक्शन कमीशन के अधिकारी से बड़ा कोई आदमी नहीं है, उससे बड़ी कोई ऑथोरिटी नहीं बन सकती। (व्यवधान) इसके बाद मैं और कुछ नहीं कह सकता हूँ। (व्यवधान)

MR. CHAIRMAN : The House stands adjourned to meet again at 11 a. m. on 6<sup>th</sup> May, 2005.

...(Interruptions)

18.27 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock*

*on Friday, May 6, 2005/Vaisakha 16, 1927 (Saka).*