

## ELECTION DILEMMA IN MIHIRPUR

**SMT AKLIMA KHATUN  
SRI AMITAVA DATTA  
SRI ABU BAKAR  
SRI SUBHES BERA  
SRI ARUNABHA DAS**

1. Mihirpur block is located in the subdivision of Manickgunj in the district of Simana. It falls in such an Assembly Constituency that spreads partly over mainland and partly over the Ganges deltaic region. The area is criss-crossed by a network of rivers and canals, fed by the Ganges and the Bay of Bengal. Communication, in some parts, is totally dependent on country boats, which can be used only during the high tides. It was in 2003, that Mr Avik Sen, WBCS (Exe), a direct recruit cadre of 1996 was posted in Mihirpur Block as Block Development Officer, which is his second assignment in that capacity. He has so far conducted six summary revisions of electoral rolls and four Assembly, Parliamentary & Panchayat Elections in the same capacity.
  
2. Summary Revision of Electoral Rolls usually a routine work for updating of Electoral rolls every year. But in 2005, it drew special attention of everyone, as, in the succeeding year i.e., 2006, the Assembly Election was scheduled to be held in May. The ECI imparted emphasis on the Roll Revision works which commenced in the month of November, 2005. Virtually the works related to Assembly Election started from this time. All the officials related to it started works in full swing. The Election machinery is as follows:-
  - I. At the state level the Chief Election Officer, West Bengal (CEO, W.B.) is the nodal representative of the Election Commission of India (ECI).
  - II. At District level, District Magistrate acts as District Election Officer (DEO). He may depute various Officers under him as nodal officer of different sections related to Elections. The Additional District Magistrates (ADM) acts on behalf of the DEO in-charge of Sub-Division.
  - III. At Sub-Divisional level the Sub-Divisional Officer (SDO) acts as Electoral Registration Officer (ERO) in respect of Electoral Roll Revision works and Returning Officer (RO) of one or more constituencies as desired by the ECI. The Deputy Magistrates under him may be entrusted with the similar job with approval from the ECI.
  - IV. At Block level, the Block Development Officer acts as Asst. Electoral Registration Officer (AERO) and Asst. Returning Officer (ARO). The Extension Officer Under him may be entrusted with the job as per approval of the ECI.

All those were related to Assembly Elections, 2006, which was scheduled to be held in the months of April & May, 2006. In West Bengal the Elections were to be held in all 294 seats in the State Assembly.

The Summary Revision of Electoral Rolls (SRER) – 2006 works started with the draft publication of Electoral Rolls on Oct. 28,2005. The Primary School Teachers were engaged as Designated Officer (DO) at the booth level. Their preliminary responsibilities were to publish Electoral Rolls, hold a special Sansad Meeting for reading out the same, distribute forms to the eligible voters on demand, receive those back after checking, conduct enquiries to check validity of claims at booth level and submit all those to the respective AERO within time. The last date for those work was fixed on 27<sup>th</sup> Nov.,2005. In Annexure-I, the detailed provisions of the Registration of the Electoral Rules,1960 is furnished. The final disposal of forms was done by the BDO and AERO's through hearing and enquiry by his officials.

3. Mr Sen was receiving reports from the Booth Level Officers (BLO) that in the Special Summary Revision of Electoral Rolls, 2006, huge number of forms would be submitted. The ECI directed to engage BLO's who would act as Liaison Officer between the AERO and Booth level. His Primary duty was to enquire the validity of the claims by the Electors during SRER – 2006 by field level enquiry. The report from BLOs took shape on the last day of the campaign for the receiving of application i.e., on 19.11.2005 when the process of submission of forms 6, 7, 8, 8A ran until 9 p.m. due to the forthcoming Assembly Elections of 2006. After disposal of claims and objections and manuscript writing, sending of the same to the sub – divisional level was completed within December 24, 2005 for data entry works.
4. In the meantime the Election Commission of India (ECI) had issued order for formulating a data-base on 21<sup>st</sup> November, 2005, on networking and personal profiles of Booth Level Officers. The exact requirement of the ECI was to form a permanent Election Machinery upto the Booth level till Election was over and networking those with a data-base and to make Electoral Rolls error-free as far as possible. The collection of phone numbers of contact persons at booth level and collection of personal profiles was a huge task and had to be completed within a week as desired by the ECI. Meanwhile, it had issued another direction for re-assessing the Revision works already done as according to the ECI, the percentage of increase in voters all over West Bengal was four percent that time. The percentage of increase is the net inclusion of voters to the total voters of a particular constituency multiplied by 100 [(Total Inclusion – Total Deletion) / (Total Voter) x 100]. For this the ECI had suggested some measures, viz., checking of de-duplication works, re-enquiry of Rejected Form 7's, taking and enquiry of lists from Death & Birth Registers, Dead & Shifted voters lists submitted by local people, Booth Level Officers (BLO), political parties, non-Elector's Photo Identity Card, etc (the detailed Election Statute and Procedures as per Representation of Peoples Act, 1951 is shown in Annexure-III).
5. At that point, Smt. Ipsita Som, an IAS of 1990 Batch, the District Magistrate, convened an emergency meeting on Election on Jan.,5,2006, which started at 4

p.m. and continued upto midnight, the main agenda of which was the ways of keeping the Electoral Rolls error-free just prior to the Assembly Election, 2006. The meeting was needed as a follow-up meeting of the DEO's with the CEO, W.B. in which the latter expressed his anguish over the casual approach of some Districts towards cleansing of Electoral Roll Process and Simana was also a part of it. The DEO's of those Districts were specially told to put in more efforts immediately. Generally the meetings were held for 5 to 6 hours during normal office hours, but Mr. Sen with his other colleagues saw an election meeting extended upto midnight to emphasise the urgency to clean the Electoral Roll and thus it seemed an unique one. In that meeting the DM also made some specific instructions for optimum deletion of names of ineligible voters from the electoral rolls, otherwise, it would be a personal liability of the concerned officer – she made that crystal clear.

6. After that, fresh drives were taken for such deletion works in the midst of preparatory works of forthcoming Assembly Election, 2006 (**vide annexure – II**). Some unique decisions were also taken by the ECI for engaging a 2<sup>nd</sup> polling officer for specially checking the identity of the voters at the voter's line, deployment of the Central Para Military Forces (CPMF) at every polling station, engaging Observers in every constituency over whom there would be Monitoring Observers at the Sub-Division and District levels. The decisions seemed unique as those were the provisions in different Election Acts & Rules, but the ECI for the first time made serious attempts to make those implemented. So far, the voters at large and officials relating to Elections were habituated with some conventions, which might be contrary to actual provisions, but for long term exercise those were treated as Rules. At the time of submission of Nomination Papers to the R.O.'s at sub-divisional and district levels, every candidate had to file an affidavit mentioning the details of his movable and immovable assets and record of any criminal cases against him. At the time of scrutiny of nomination papers the District Observer also verified it. These observers are appointed by the ECI. The Monitoring Observers for every Assembly Constituency has to monitor day to day progress and report to the ECI with a copy to the District Observer. The District Observer in turn monitors the overall Election Procedure in the District and keep the ECI posted of it.
7. For this, Avik Sen had to make special arrangements for CPMF and Observers, maintaining liaison with the Police Personnel. He had to requisition schools, make arrangement of accommodation for CPMF personnel during poll, arrange Electricity and Generators and also to make provision for drinking waters there. He had also to requisition the best Guest House under his block, make Electricity & Air Conditioner running with generators and arrange foods according to requirements of the Observers. All the procedures related to Election were now running smoothly.
8. But the procedures for randomisation of Polling Personnel, their training and assigning their Polling Stations at the Distribution Centre (DC) created some fear

of mismanagement in the mind of Avik Sen. That time the ECI had instructed that a data-base of all Polling Officers had to be made centrally at the district level. Those were to be randomised in computer in presence of District Observer and after that appointment letters were to be generated. Those were to be distributed mentioning the 3-phase training for Presiding and 1<sup>st</sup> Polling Officers and 2-phase training for the rest of the Polling Officers. This included general training for all and Electronic Voting Machine (EVM) training – both theoretical and hands-on for the Presiding and 1<sup>st</sup> Polling Officers. Then their decoding for Party formation, receiving of Election materials from the receiving counters and departure for Poll duty would be done at the Distribution Centre (DC). All those procedures were very hard but had to be done within 6 to 8 hrs as desired by the ECI. This created some tension and misunderstanding between the Polling duty officers and those at the Distribution counters. Avik Sen was entrusted as the nodal BDO of the whole constituency, though he had a share of only 58 Polling Stations out of 202 in total by the District Administration due to the positional advantages for movement of polling personnel as the railway station was 100 yards away from the DC. The system of nodal role of a particular Block had also complicated problems for sharing of overload amongst the Block staff. As the main work, viz., receiving materials, bagging, preparation of route charts for polling party movement etc., was scheduled to be held in the nodal block, the staffs of adjacent blocks were unwilling to work in another block under a different office master. So, Mr Sen earnestly sought co-operation from his staff and they responded working hard overnight for some days to meet the deadline. In spite of resentment, they took the lion's share of work. But the last thing was the most spectacular. On the penultimate day morning, a fax came from the DM that the ECI desired to depute another Additional Second Polling Officer in those polling stations having more than 1000 voters. It had also decided to cater them from the list of Reserve Polling Personnel.

9. At this point, the situation became very grave, as it was a totally unpredictable event for which no plan had been drawn beforehand. Over Public Address System the fax message was repeatedly announced which created confusion among those Polling Parties, already formed or yet to be formed after decoding of Polling Stations. The procedure of tagging of an Additional second Polling Officer created such a ruckus that the Officer –in – Charge of Election of Block Mihirpur fainted and had to be hospitalised. However, with the help of another set of efficient staff it was completed within 4 p.m. and all Polling Parties were dispersed within 5 p.m. from the DC i.e. on 26.04.2006. But afterwards, some additional second Polling Officers had to be tagged, using specially arranged vehicles, to the parties already left on the penultimate day and two days before the Poll Day, i.e. on 27.04.2006. Afterwards, the tension totally evaporated as four personnel of CPMF were engaged in each booth.
10. As the poll started and went on smoothly there were phone calls from different corners, especially from the ruling party. This election was highlighted as a battle between the government and ECI. Also the anti-incumbency factor was reported

and hyped by the media constantly as the ruling party tried to continue for the 6<sup>th</sup> term. Naturally the local representatives of the ruling party also felt pressure and reported atrocities of the CPMF jawans engaged in every polling stations who were actually doing their duties. On enquiry of each allegation by the sector personnel all were found baseless. The sitting MLA of the ruling party and an important figure of the state cabinet feared about his fate as in the previous election he had won by a slim margin over the ex-MLA of thirty years. He expressed his concern over phone to the BDO. The sector personnel & officers were engaged for each sector comprising 10 to 12 polling stations under them to look after on the poll day.

11. It has been already stated that parts of the constituency were inaccessible due to tide cycle. As a result, the last polling party reached and submitted the polling materials on the day after the election. In the meantime, the observer was worried about the EVM's and Ballot Paper Accounts (Form 17C). He was under direction from the ECI to check the documents of polled votes in at least 80% of the polling stations, as the voting percentage was very high in the constituency. Once he asked for all the materials in a bunch but later wanted them in phases. The ADM-in-Charge also had to change his order likewise. Finally, the work of checking of the above was completed at 5 p.m. on 28.04.2006.
12. The counting of votes became a very refreshing work as all the hard work was already over. The results were out within four hours as the EVM's showed the results in two seconds. But the counting of postal ballots took a little longer time as the manual counting method had to be followed.
13. After the election the block staff of Mihirpur along with the BDO went to a picnic and shared merry moments. Some even joked that they could undertake any job on earth. The appreciation of the DM added to their celebrations.

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**Annexure I: Registration of Electors Rules, 1960**

**Annexure II: Role of Election Commission**

**Annexure III: Representation of the Peoples Act, 1951**

**Annexure IV: Teaching Notes**

**Annexure-I**  
**(Registration of Electors Rules, 1960)**

निर्वाचक रजिस्ट्रीकरण नियम, 1960  
(कानूनी नियम और आदेश)

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**5. Preparation of roll in parts.**—(1) The roll shall be divided into convenient parts which shall be numbered consecutively.

(2) The last part of the roll shall contain the names of every person having a service qualification and of his wife, if any, who are entitled to be included in that roll by virtue of a statement made under rule 7.

(3) The names of any person holding a declared office and of his wife, if any, who are entitled to be included in the roll by virtue of a statement made under rule 7 shall be included in the part of the roll, pertaining to the locality in which they would, according to that statement, have been ordinarily resident.

(4) The number of names included in any part of the roll shall not ordinarily exceed two thousand.

**6. Order of names.**—(1) the names of electors in each part of the roll shall be arranged according to house number, unless the chief electoral officer, subject to any general or special instructions issued by the Election Commission, determines in respect of any part that the alphabetical order is more convenient or that the names shall be arranged partly in one way and partly in the other.

(2) The names of electors in each part of the roll shall be numbered, so far as practicable, consecutively with a separate series of numbers beginning with the number one.

**7. Statement under section 20.**—(1) Every person who holds a declared office or has a service qualification and desires to be registered in the roll for the constituency in which, but for holding such office or having such qualification, he would have been ordinarily resident, shall submit to the <sup>1</sup>[registration officer of the constituency], a statement in such one of the <sup>1</sup>[Forms 1, 2, 2A and 3] as may be appropriate.

(2) Every statement submitted under sub-rule (1) shall be verified in the manner specified in the Form.

(3) Every such statement shall cease to be valid when the person making it ceases to hold a declared office or, as the case may be, have a service qualification.

**8. Information to be supplied by occupants of dwelling-houses.**—The registration officer may, for the purpose of preparing the roll, send letters of request in Form 4 to the occupants of dwelling-houses in the constituency or any part thereof; and every person receiving any such letter shall furnish the information called for therein to the best of his ability.

**9. Access to certain registers.**—For the purpose of preparing any roll or deciding any claim or objection to a roll, any registration officer and any person employed by him shall have access to any register of births and deaths and to the admission register of any educational institution, and it shall be the duty of every person in charge of any such register to give to the said officer or person such information and such extracts from the said register as he may require.

**10. Publication of roll in draft.**—As soon as the roll for a constituency is ready, the registration officer shall publish it in draft by making a copy thereof available for inspection and displaying a notice in Form 5—

(a) at his office, if it is within the constituency, and

(b) at such place in the constituency as may be specified by him for the purpose, if his office is outside the constituency.

**11. Further publicity to the roll and notice.**—The registration officer shall also—

(a) make a copy of each separate part of the roll, together with a copy of the notice in Form 5 available for inspection at a specified place accessible to the public and in or near the area to which that part relates;

(b) give such further publicity to the notice in Form 5 as he may consider necessary; and

(c) supply free of cost two copies of each separate part of the roll to every political party<sup>1</sup> [for which a symbol has been exclusively reserved in the State] by the Election Commission.

<sup>2</sup>[12. **Period for lodging claims and objections.**—Every claim for the inclusion of a name in the roll and every objection to an entry therein shall be lodged within a period of thirty days from the date of publication of the roll in draft under rule 10, or such shorter period of not less than fifteen days as may be fixed by the Election Commission in this behalf:

Provided that the Election Commission may, by notification in the Official Gazette, extend the period in respect of the constituency as a whole or in respect of any part thereof.]

**13. Form for claims and objections.**—(1) Every claim shall be—

(a) in Form 6; <sup>3</sup>[and]

(b) signed by the person desiring his name to be included in the roll; <sup>4\*\*\*</sup>

<sup>4\*</sup> \* \* \* \* \*

(2) Every objection to the inclusion of a name in the roll shall be—

(a) in Form 7; <sup>3</sup>[and]

(b) preferred only by a person whose name is already included in that roll; <sup>4\*\*\*</sup>

<sup>4\*</sup> \* \* \* \* \*

(3) Every objection to a particular or particulars in an entry in the roll shall be—

(a) in Form 8; and

(b) preferred only by the person to whom that entry relates.

<sup>5</sup>[(4) Every application for transposition of an entry from one part to another part of the roll shall be in Form 8A.]

**14. Manner of lodging claims and objections.**—Every claim or objection shall—

(a) either be presented to the registration officer or to such other officer as may be designated by him in this behalf; or

(b) be sent by <sup>6\*\*\*</sup> post to the registration officer.

**15. Procedure of designated officers.**—(1) Every officer designated under rule 14 shall—

(a) maintain in duplicate a list of claims in Form 9, a list of objections to the inclusion of names in Form 10 and a list of objections to particulars in Form 11; and

(b) keep exhibited one copy of each such list on a notice board in his office.

(2) Where a claim or objection is presented to him, he shall, after complying with the requirements of sub-rule (1), forward it with such remarks, if any, as he considers proper to the registration officer.

**16. Procedure of registration officer.**—The registration officer also shall—

(a) maintain in duplicate the three lists in Forms 9, 10 and 11, entering thereon the particulars of every claim or objection as and when it is received by him whether directly under rule 14 or on being forwarded under rule 15; and

(b) keep exhibited one copy of each such list on a notice board in his office.

**17. Rejection of certain claims and objections.**—Any claim or objection which is not lodged within the period, or in the form and manner, herein specified, shall be rejected by the registration officer.

**18. Acceptance of claims and objections without inquiry.**—If the registration officer is satisfied as to the validity of any claim or objection, he may allow it without further inquiry after the expiry of one week from the date on which it is entered in the list exhibited by him under clause (b) of rule 16:

Provided that where before any such claim or objection has been allowed, a demand for inquiry has been made in writing to the registration officer by any person, it shall not be allowed without further inquiry.

**19. Notice of hearing claims and objections.**—(1) Where a claim or objection is not disposed of under rule 17 or rule 18, the registration officer shall—

(a) specify in the list exhibited by him under clause (b) of rule 16, the date, time and place of hearing of the claim or objection; and

(b) give notice of the hearing—

(i) in the case of a claim to the claimant in Form 12;

(ii) in the case of an objection to the inclusion of a name, to the objector in Form 13 and to the person objected to in Form 14; and

(iii) in the case of an objection to a particular or particulars in an entry, to the objector in Form 15.

(2) A notice under this rule may be given either personally or by registered post or by affixing it to the person's residence or last known residence within the constituency.

**20. Inquiry into claims and objections.**—(1) The registration officer shall hold a summary inquiry into every claim or objection in respect of which notice has been given under rule 19 and shall record his decision thereon.

(2) At the hearing, the claimant or, as the case may be, the objector and the person objected to and any other person who, in the opinion of the registration officer, is likely to be of assistance to him, shall be entitled to appear and be heard.

(3) The registration officer may in his discretion—

(a) require any claimant, objector or person objected to, to appear in person before him;

(b) require that the evidence tendered by any person shall be given on oath and administer an oath for the purpose.

**21. Inclusion of names inadvertently omitted.**—<sup>1</sup>[(1)] If it appears to the registration officer that owing <sup>2</sup>\*\*\* to inadvertence or error during preparation, the names of any electors have been left out of

(a) prepare a list of the names and other details of such electors;

(b) exhibit on the notice board of his office a copy of the list together with a notice as to the time and place at which the inclusion of these names in the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be included in the roll.

<sup>1</sup>[(2) If any statements under rule 7 are received after the publication of the roll in draft under rule 10, the registration officer shall direct the inclusion of the names of the electors covered by the statements in the appropriate parts of the roll.]

<sup>2</sup>[21A. **Deletion of names.**—If it appears to the registration officer at any time before the final publication of the roll that owing to inadvertence or error or otherwise, the names of dead persons or of persons who have ceased to be, or are not, ordinarily residents in the constituency or of persons who are otherwise not entitled to be registered in that roll, have been included in the roll and that remedial action should be taken under this rule, the registration officer, shall—

(a) prepare a list of the names and other details of such electors;

(b) exhibit on the notice board of his office a copy of the list together with a notice as to the time and place at which the question of deletion of these names from the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be deleted from the roll:

Provided that before taking any action under this rule in respect of any person on the ground that he has ceased to be, or is not, ordinarily resident in the constituency, or is otherwise not entitled to be registered in that roll, the registration officer shall make every endeavour to give him a reasonable opportunity to show cause why the action proposed should not be taken in relation to him.]

**22. Final publication of roll.**—(1) The registration officer shall thereafter—

(a) prepare a list of amendments to carry out his decisions under rules 18, 20, <sup>3</sup>[21 and 21A] and to correct any clerical or printing errors or other inaccuracies subsequently discovered in the roll; <sup>4</sup>\*\*\*

(b) publish the roll, together with the list of amendments, by making a complete copy thereof available for inspection and displaying a notice in Form 16 at his office; <sup>5</sup>[and]

<sup>5</sup>[(c) subject to such general or special directions as may be given by the Election Commission supply, free of cost, two copies of the roll, as finally published, with the list of amendments, if any, to every political party for which a symbol has been exclusively reserved by the Election Commission.]

(2) On such publication, the roll together with the list of amendments shall be the electoral roll of the constituency.

<sup>1</sup>[(3) Where the roll (hereafter in this sub-rule referred to as the basic roll), together with the list of amendments, becomes the electoral roll for a constituency under sub-rule (2), the registration officer may, for the convenience of all concerned, integrate, subject to any general or special directions issued by the Election Commission in this behalf, the list into the basic roll by <sup>2</sup>[incorporating inclusion of names, amendment, transposition or deletion of entries in the relevant parts of the basic roll itself] in the relevant parts of the basic roll itself, so however that no change shall be made in the process of such integration in the name of any elector or in any particulars relating to any elector as given in the list of amendments.]

**23. Appeals from orders deciding claims and objections.**—(1) An appeal shall lie from any decision of the registration officer under rule 20, <sup>3</sup>[rule 21 or rule 21A] to such officer of Government as the Election Commission may designate in this behalf (hereinafter referred to as the appellate officer):

Provided that an appeal shall not lie where the person desiring to appeal has not availed himself of his right to be heard by, or to make representations to, the registration officer on the matter which is the subject of appeal.

(2) Every appeal under sub-rule (1) shall be—

(a) in the form of a memorandum signed by the appellant, and

(b) presented to the appellate officer within a period of fifteen days from the date of announcement of the decision or sent to that officer by registered post so as to reach him within that period.

(3) The presentation of an appeal under this rule shall not have the effect of staying or postponing any action to be taken by the registration officer under rule 22.

(4) Every decision of the appellate officer shall be final, but in so far as it reverses or modifies a decision of the registration officer, shall take effect only from the date of the decision in appeal.

(5) The registration officer shall cause such amendments to be made in the roll as may be necessary to give effect to the decisions of the appellate officer under this rule.

**24. Special provision for preparation of rolls on redelimitation of constituencies.**—(1) If any constituency is delimited a new in accordance with law and it is necessary urgently to prepare the roll for such constituency, the Election Commission may direct that it shall be prepared—

(a) by putting together the rolls of such of the existing constituencies or parts thereof as are comprised within the new constituency; and

(b) by making appropriate alterations in the arrangement, serial numbering and headings of the rolls so compiled.

(2) The roll so prepared shall be published in the manner specified in rule 22 and shall, on such publication, be the electoral roll for the new constituency.

**25. <sup>4</sup>[Revision of rolls].**—(1) The roll for every constituency shall be revised under sub-section (2) of section 21 either intensively or summarily or partly intensively and partly summarily, as the Election Commission may direct.

## **Annexure – II: Role of Election Commission**

The 14<sup>th</sup> Assembly Election of West Bengal was held in five phases. The Election was declared on 1<sup>st</sup> March 2006. Polling in the 1<sup>st</sup> phase was started on and from 17<sup>th</sup> April and ended on 8<sup>th</sup> May 2006. The result was published on 11<sup>th</sup> May 2006. According to the guideline of the ECI, the work of Spl. Summary Revision of Electoral Roll for including the name of the voter who completed 18 yrs as on 1<sup>st</sup> January 2006 and the names of those voters against whom there were non-bailable warrant of arrest for 6 months or more would be excluded from the Electoral Roll, was started on 20<sup>th</sup> October and ended on 19<sup>th</sup> November-2005 published by all the leading newspapers.

### **Role of Election Commission :**

The rules and regulations implemented by the ECI are;

- i) To appoint one observer in each district at the time of Spl. Summary Revision of Electoral Roll, 2006.
- ii) After the completion of the Spl. Summary Revision of Electoral Roll, 2006, continuous upgradation of Electoral Roll would be maintained as the huge genuine voters lived in both villages and towns were excluded from the list. Besides giving no chances of hearing, many names of voters were excluded in each Assembly Constituency under West Bengal. On the other hand the names of huge dead and shifted voters were still exist in the Electoral Roll.
- iii) To follow the existing Act regarding Wall writings, poster, banners, hoardings, chain flags etc. in toto.
- iv) To obtain advance permission for using car/vehicle for election campaigning of the candidate.
- v) To appoint one General Observer for each Assembly Constituency and one Financial Observer for 3-4 Assembly constituencies.
- vi) To issue Voter's Slip in the name of the voters those who had no EPIC at least 3 days before the day of poll and send the counterfoil to the respective Presiding Officer for proper identification of the voter/elector by verifying the signature of the elector from the counterfoil.
- vii) There would be no camp of any political party within 100 metres from the Polling Station.
- viii) The pass of Polling Agent would be deposited to the Presiding Officer.
- ix) To appoint one additional Polling Officer to check the Identity Cards.

## Annexure – III

### (Representation of the Peoples Act, 1951)

#### PART IV

#### ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

**19. Definition.**—In this Part and in Part V, unless the context otherwise requires, "constituency" means <sup>2</sup>\* \* \* a Parliamentary constituency or an Assembly constituency or a Council constituency.

<sup>3</sup>[**19A. Delegation of functions of Election Commission.**—The functions of the Election Commission under the Constitution, the Representation of the People Act, 1950 (43 of 1950), and this Act or under the rules made thereunder may, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, be performed also by a Deputy Election Commissioner or by the Secretary to the Election Commission.]

<sup>4</sup>[**20. General duties of chief electoral officers.**—Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer of each State shall supervise the conduct of all elections in the State under this Act.

<sup>5</sup>[**20A. General duties of district election officer.**—(1) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State.

(2) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.]

<sup>6</sup>[**20B. Observers.**—(1) The Election Commission may nominate an Observer who shall be an officer of Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the Election Commission.

(2) The Observer nominated under sub-section (1) shall have the power to direct the returning officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result if in the opinion of the Observer booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.

(3) Where an Observer has directed the returning officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the Election Commission and thereupon the Election Commission shall, after taking all material circumstances into account, issue appropriate directions under section 58A or section 64A or section 66.

*Explanation.*—For the purposes of sub-section (2) and sub-section (3), "Observer" shall include a Regional Commissioner or any such officer of the Election Commission as has been assigned under this section the duty of watching the conduct of election or elections in a constituency or group of constituencies by the Commission.]

**21. Returning officers.**—For every constituency, for every election to fill a seat or seats in the Council of States and for every election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State, the Election Commission shall, in consultation with the Government of the State, designate or nominate a returning officer who shall be <sup>1</sup>[an officer of Government or of a local authority]:

Provided that nothing in this section shall prevent the Election Commission from designating or nominating the same person to be the returning officer for more than one constituency.]

**22. Assistant returning officers.**—(1) The Election Commission may appoint one or more persons to assist any returning officer in the performance of his functions:

Provided that every such person shall be <sup>1</sup>[an officer of Government or of a local authority].

(2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relate <sup>2</sup>\* \* \* to the scrutiny of nominations <sup>3</sup>\* \* \* unless the returning officer is unavoidably prevented from performing the said function.

**23. Returning officer to include assistant returning officers performing the functions of the returning officer.**—References in this Act to the returning officer shall, unless the context otherwise requires, be deemed to include an assistant returning officer performing any function which he is authorised to perform under sub-section (2) of section 22.

**24. General duty of the returning officer.**—It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

<sup>4</sup>[**25. Provision of polling stations for constituencies.**—The district election officer shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for every constituency the whole or greater part of which lies within his jurisdiction, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.]

**26. Appointment of presiding officers for polling stations.**—(1) The <sup>5</sup>[district election officer] shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the <sup>5</sup>[district election officer] accordingly:

<sup>6</sup>[Provided further that nothing in this sub-section shall prevent the <sup>5</sup>[district election officer] from appointing the same person to be the presiding officer for more than one polling station in the same premises.]

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorized by the <sup>1</sup>[district election officer] to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorized to perform under sub-section (2) or sub-section (3), as the case may be.

<sup>2</sup>\* \* \* \*

**27. General duty of the presiding officer.**—It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

**28. Duties of a polling officer.**—It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

<sup>3</sup>[**28A. Returning officer, presiding officer, etc., deemed to be on deputation to Election Commission.**—The returning officer, assistant returning officer, presiding officer, polling officer, and any other officer appointed under this Part, and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the results of such election and accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.

**29. Special provisions in the case of certain elections.**—(1) The returning officer for an election <sup>4</sup>\* \* \* to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, with the previous approval of the Election Commission, fix the place at which the poll will be taken for such election and shall notify the place so fixed in such manner as the Election Commission may direct.

(2) The returning officer shall preside over such election at the place so fixed and shall appoint such polling officer or officers to assist him as he thinks necessary but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election.

#### <sup>5</sup>[PART IVA

#### REGISTRATION OF POLITICAL PARTIES

**29A. Registration with the Election Commission of associations and bodies as political parties.**—(1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub—section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub—section (5).

(8) The decision of the Commission shall be final.

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.]

<sup>1</sup>[29B. Political parties entitled to accept contribution.—Subject to the provisions of the Companies Act, 1956 (1 of 1956), every political party may accept any amount of contribution voluntarily offered to it by any person or company other than a Government company:

Provided that no political party shall be eligible to accept any contribution from any foreign source defined under clause (e) of section 2 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976).

*Explanation.*—For the purposes of this section and section 29C,—

(a) “company” means a company as defined in section 3;

(b) “Government company” means a company within the meaning of section 617; and

(c) “contribution” has the meaning assigned to it under section 293A,

of the Companies Act, 1956 (1 of 1956) and includes any donation or subscription offered by any person to a political party; and

(d) “person” has the meaning assigned to it under clause (31) of section 2 of the Income-tax Act, 1961 (43 of 1961), but does not include Government company, local authority and every artificial juridical person wholly or partially funded by the Government.

**29C. Declaration of donation received by the political parties.**—(1) The treasurer of a political party or any other person authorised by the political party in this behalf shall, in each financial year, prepare a report in respect of the following, namely:—

(a) the contribution in excess of twenty thousand rupees received by such political party from any person in that financial year;

(b) the contribution in excess of twenty thousand rupees received by such political party from companies other than Government companies in that financial year.

(2) The report under sub-section (1) shall be in such form as may be prescribed.

(3) The report for a financial year under sub-section (1) shall be submitted by the treasurer of a political party or any other person authorised by the political party in this behalf before the due date for furnishing a return of its income of that financial year under section 139 of the Income-tax Act, 1961 (43 of 1961), to the Election Commission.

(4) Where the treasurer of any political party or any other person authorised by the political party in this behalf fails to submit a report under sub-section (3) then, notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), such political party shall not be entitled to any tax relief under that Act.]

## PART V CONDUCT OF ELECTIONS

### CHAPTER I.—*Nomination of Candidates*

<sup>1</sup>[30. **Appointment of dates for nominations, etc.**—As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint —

(a) the last date for making nominations, which shall be the <sup>2</sup>[seventh day] after the date of publication of the first-mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

## Annexure IV: Teaching Notes

Issues that Emerge from the Case Study –

1. Consciousness of eligible persons & Political Parties arises only when election nears.
2. Irrational increase in workload for a time period due to ECI mandate.
3. Lack of assessing ground reality on the part of the ECI.
4. In pressure situation the higher officials also acted restlessly.
5. Some higher-level officers create stressful conditions.
6. Non-sharing of responsibilities during emergencies.
7. Scientific approach of the ECI for betterment of election procedures.
8. Liaison between Civil and Police Administration yielded rich dividends in Election Works.
9. Some efficient Police Officers can share extra responsibility & directly help the Election procedures also, going beyond their normal duties.
10. Emergency may arise at any moment and all nodal officers conducting Elections should act accordingly.
11. Dedication of staff engaged for such mammoth task automatically rises in spite of minor resentments.
12. There must be a Contingency Plan for each & every unforeseen event.
13. Some predicted Contingent Plans help overcoming minor hiccups.
14. Strict followings of Rules & Regulations in force, created panic among political parties.
15. Outside officers lack knowledge of ground level realities and may sometimes act illogically.
16. Local level officers may also be incited and make things more worse.
17. Success brings confidence.
18. The implementation of provisions of Acts & Rules relating to Elections actually helps the voters to cast their franchise more effectively & flawlessly.
19. “Battle” is thrust upon between the Govt. & the ECI by the media to make hype for enhancing their TRPs.
20. Postal Ballots are cast by the voters on Election duty by postal Authority but has to reach the concerned R.O. upto 08:00 a.m. on the counting day positively, otherwise they are treated as cancelled.

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