



**RAMA
UNIVERSITY**

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FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB

SEMESTER SUBJECT:

ELECTION LAWS

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NAME OF FACULTY: PANKHURI SRIVASTAVA

Lecture-1



LECTURE 1: QUALIFICATIONS AND DISQUALIFICATIONS OF MEMBERS OF PARLIAMENT UNDER CONSTITUTION OF INDIA

A **Member of Parliament in Lok Sabha**, is the representative of the Indian people in the Lok Sabha; the lower house of the Parliament of India. Members of parliament of Lok Sabha are chosen by direct elections on the basis of the adult suffrage. Parliament of India is bicameral with two houses; Rajya Sabha (upper house i.e. Council of States) and the Lok Sabha (lower house i.e. House of the People). The maximum permitted strength of members of parliament in the Lok Sabha is 550. This includes maximum 530 members to represent the constituencies and states and up to 20 members to represent the union territories (both chosen by direct elections). Between 1952 and 2020, two seats were reserved for members of the Anglo-Indian community. The current elected strength of the Lok Sabha is 543. The party—or coalition of parties—having a majority in the Lok Sabha chooses the Prime Minister of India

- **Qualifications to Become an MP**

As per article 84 of the constitution, a person is qualified to be a member of parliament provided he:

- is a citizen of India
- has completed 30 years of age in case of Rajya Sabha and 25 years in case of Lok Sabha.
- possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

The third condition above led the parliament to include other qualifications for MPs in the *Representation of People Act (1951)*. These qualifications are as follows:

- Only an elector can be elected. Thus, the candidate must be registered as a voter in a parliamentary constituency and *must be eligible to vote*. If due to any reason the person loses eligibility to vote, he would lose eligibility to contest also. For example if a person is jailed or in lawful detention at the time of elections, he shall *not be eligible for voting*. However, if a

person is in preventive custody, he can vote. These define if a person is able to contest for election of MP or not.

- It is *not necessary* that a person should be registered as a voter in the same constituency. This is applicable for both Lok Sabha and Rajya Sabha.
- A person from reserved category only can contest election if the Lok Sabha seat is reserved for these categories. However, an SC/ST person can contest election on an unreserved seat also.
- **Disqualification grounds**

The constitution of India has provided (in article 102) that a member of parliament will be disqualified for membership if:

- He holds any office of profit under the Union or state government (except that of a minister or any other office exempted by Parliament)
- He is of unsound mind and stands so declared by a court.
- He is an undischarged insolvent.
- He has ceased to be a citizen of India.
- He is disqualified under any *other law by parliament*

The last condition above led the parliament to include some other conditions for disqualification in *Representation of People Act (1951)*. These are as follows:

- He must not have been found guilty of certain election offences and corrupt practices
- He must not have been convicted for any offence that results in imprisonment for two or more years. However, detention under preventive detention law is not disqualification.

- He must not have failed to lodge an account of election expenses within stipulated time.
- He must not have any interest in government contracts, works and services.
- He must not be a director or managing personnel in a company / organization in which government has at least 25% share.
- He must not have been dismissed from government service due to corruption or disloyalty to state.
- He must not have been convicted for promoting enmity between groups.
- He must not have been punished for supporting social crimes such as untouchability, sati, dowry etc.
- **Disqualification on Ground of Defection**

Apart from article 102, the **Tenth Schedule** to Constitution provides for disqualification of the members on ground of defection. Defection refers to desertion of one's party in favor of an opposing one. As per the provisions of the Tenth Schedule, a member may be disqualified if he:

- Voluntarily gives up the membership of his political party which gave him ticket to contest and win
- Votes or abstains from voting in the House contrary to any direction issued by the political party to which he belongs, unless such voting or abstention has been condoned by the political party within fifteen days.
- A member elected as an independent candidate shall be disqualified if he joins any political party after his election.

- However, a nominated member is allowed to join a political party provided he joins such political party of his choices within a period of six months. After that period, joining a political party would lead to defection and disqualification.