Summary of Recommendations

5th Regional Consultation on Electoral Reforms

Chandigarh

(Covering Jammu & Kashmir, Himachal Pradesh, Punjab, Haryana & Union Territory of Chandigarh)

5th February, 2011
1. INTRODUCTION.

The Fifth Regional Consultation on Electoral Reforms was held on 5th February 2011, in Chandigarh. Sessions were held at the Chandigarh Judicial Academy.

Panel Discussions were based on the Background Paper on Electoral Reforms, and covered the following broad categories: Criminalization of Politics, Financing of Elections, Conduct and Better Management of Elections, Regulating Political Parties, Adjudication of Election Disputes, and Review of Anti-Defection Law.

Recommendations made by Dr. S.Y. Quraishi, Chief Election commissioner of India, and Dr. M. Veerappa Moily, Hon’ble Union Minister of Law and Justice are not included below as they are present in the background paper.

The following is a summary of recommendations made at the Consultation

2. CRIMINALISATION OF POLITICS

2.1 Disclosure of criminal antecedents by candidates

Currently, rule 4A of the Conduct of Election rules, 1961, prescribes that each candidate must file an affidavit (Form 26 appended to Conduct of Election Rules, 1961) regarding (i) cases, if any, in which the candidate has been accused of any offence punishable with imprisonment for 2 years or more in a pending case in which charges have been framed by the court, and (ii) cases of conviction for an offence other than any of the offences mentioned in section 8 of Representation of the People Act 1951, and sentenced to imprisonment for 1 year or more. In addition to this, pursuant to the order of the Supreme Court the Election Commission on March 27, 2003, had issued an order that candidates must file an additional affidavit stating information relating to all pending cases in which cognizance has been taken by a court.

Candidates should file one single affidavit stating criminal antecedents, assets, etc.

2.2 Ban on candidates with criminal cases pending against them

Taking into consideration the right of a citizen to contest election and also the fact that a false FRI/charge can be leveled against any person who does not sue the complainant for election and therefore it is desirable that a person who is destrous of contesting election but is also facing a criminal trial should request the court for disposal of his case before election. A provision for special courts/speedy trial of such cases can be made. Conviction by a Trial
Court or by Appellate Court should be treated as disqualification for contesting elections. Pendency of appeal or revision in higher court against conviction should not be a ground to overcome the bar of disqualification in contesting election on the basis of conviction. On conviction by a court the MLA, MP should be deemed to have been unseated.

2.3 Negative/Neutral voting

It was suggested that a voter should be allowed to express his opinion of rejecting all the candidates on the ballot paper by selecting "none of the above" option instead of the name of candidate on the ballot.

3. FINANCING OF ELECTIONS/AUDITING OF FINANCES OF POLITICAL PARTIES

Several speakers mentioned that current limits on funding of Election were not being observed and that measures to correct this were necessary. The widespread prevalence of "black money" in election funding was also noted.

3.1 OFFICIAL LIMITS OF CAMPAIGN EXPENDITURE

It was suggested that the ceiling of election expenditure should be rationalized from time to time.

3.2 DISCLOSURE AUDIT OF ASSETS AND LIABILITIES OF CANDIDATES

It was suggested that assets of the candidates and parties can be monitored through a system of checking and cross-checking through Income Tax returns filed by the candidates, parties and their well-wishers.

It was suggested that "paid news" should be included in the election expenses of the candidate.

3.3 CURBING THE COST OF CAMPAIGNING

3.3.1 There should be no restrictions on wall writings, rallies on public properties, use of loud speakers, house-to-house campaign, putting up of banners, hoisting of flags, etc.

3.3.2 It was suggested that a candidate should not be allowed to contest elections for the same office from more than one constituency.

3.4 STATE FUNDING OF ELECTIONS

3.4.1 State funding should include materials such as posters, pamphlets, vehicles, loud speakers etc.

3.4.2 No candidate should be allowed to use more than what has been sanctioned.
34.3 The quantity of the material so provided should be fixed in every election for all National parties as well as State parties.

4. CONDUCT AND BETTER MANAGEMENT OF ELECTIONS

4.1 Voter Rolls
   4.1.1 It was suggested that there should be a common Electoral Roll for all elections at all levels and all Electoral Rolls should be computerized.
   4.1.2 Every elector should be allotted permanent unique ID number in the Electoral Roll.
   4.1.3 Local persons should be involved in the verification of the voters to ensure accuracy of Electoral Rolls.

4.2 Streamlined Elections
   It was suggested that parliamentary, assembly and local elections should be conducted at the same time to minimize election related expenditure and fatigue of election officers.

4.3 Advertisement
   It was suggested that publication from the side of government glorifying the ruling party should be prohibited six months before the expiry of the term of the House of People/Legislative Assembly.

4.4 Role of Media
   It was suggested that opinion polls should be banned at all times.
   Print media should also be covered under the ambit of same restrictions which are imposed on Electronic media.

4.5 Religion and Caste based parties
   It was suggested that parties based on religion or caste affiliation should be banned.

4.6 Structural changes
   4.6.1 Only candidates securing more than 50% votes should be eligible to be declared elected.
   4.6.2 One speaker suggested that a candidate to be declared elected should secure 50%+1 of the total votes polled. In case of failure there should be a run-off election between the first two candidates securing the largest number of votes.
4.6.3 There should be a Presidential form of Government to end all the criminalization in politics.

4.7 MISCONDUCT DURING ELECTIONS
4.7.1 Violation of Section 77(1) and 77(2) of the Representation of the People Act, 1951, should be made an electoral offence and corrupt practice.
4.7.2 One speaker suggested that a special squad should be constituted to tackle electoral offences and any person reporting any such offender should be rewarded by the government.

4.8 MEASURES FOR ELECTION COMMISSION
4.8.1 All Election Commissioners should be provided equal safeguard in the matter of their service conditions.
4.8.2 One speaker dissented from the proposal that there should be a ban on transfer of election officers within 6 months before the expiry of the term of Legislature Assembly.

4.10
Structural Changes
4.10.1 There should be direct election of Prime Minister/Chief Ministers.

5. REGULATING POLITICAL PARTIES
5.1 All the speakers suggested that a political party which fails to get even 0.1% of the total vote cast should be de-registered.
5.2 One of the speakers suggested that no restriction should be imposed on any person who contests election.

6. ADJUDICATION OF ELECTION DISPUTES

Disputes relating to Elections of the State Legislature and Union Legislature are adjudicated upon exclusively by the High Courts before which Election petitions under Section 80 and 80-A of The Representation of the People Act, 1951 is filed. Sections 80(6) and 80(7) of The Representation of the People Act, 1951 provide that the High Court shall make an endeavor to dispose of an election petition within 6 months from its presentation and also as far as practicably possible conduct proceedings of an election petition on a day-to-day basis.

In practice, however, cases involving election petitions are rarely resolved in a timely manner. According to the report "Ethics in Governance" of the Second Administrative Reforms Commission, such petitions remain pending for years and in a mean while even the full term of the house expires thus rendering the election petition infructuous.
6.1 With exception of one speaker, it was generally suggested that Election Petitions should be filed even against the defeated candidates.
6.2 Period for filing election petitions was suggested to be increased from 45 days to 60 days by one of the speakers.
6.3 A special tribunal should be constituted to ensure speedy disposal of election petitions within a stipulated period of 6 months.

7. ANTI-DEFECTION LAW

Currently the issue of disqualification of members of Parliament or a State Legislature is decided by the Speaker or chairman of the concerned house. Aside from those concerning the Tenth Schedule all other matters of post-election disqualification are decided by the President/Governor, on the advice of the Election Commission. It was suggested that since speakers of assemblies are partisan, they should not be involved with issues of disqualification for violation of the anti-defection law.
7.1 It was suggested that no exemption should be given to Speaker and Deputy Speaker under the Anti-Defection law.
7.2 There should be a bar of 6 years on any candidate found guilty of defection.

Submitted by

Mohan Jain
Additional Solicitor General of India
Coordinator
5th Regional Consultation for Electoral Reforms, Chandigarh
Experts to brainstorm on election reforms

TRIBUNE NEWS SERVICE

CHANDIGARH, JANUARY 27

Union Law Minister M Veerappa Moily, political leaders, academicians, jurists and even scholars from the region are set to put their heads together on February 3 to discuss the modes of strengthening the electoral system. Criminalisation of politics and financing of elections are among the issues scheduled to come up during the discussion.

In fact, the Union Ministry of Law and Justice, in association with the Election Commission of India, is holding a "Regional Conference and Consultation" in the form of a seminar at 10.00 am on February 3 at the Chandigarh Judicial Academy, Sector 43, Chandigarh. The conference, being organised, supervised and coordinated by Additional Solicitor-General of India Mohan Jain. He is also instrumental in mobilising the participation throughout.

Available information suggests the Union Law Minister will hold discussions with participants from Chandigarh, Punjab, Haryana, Himachal Pradesh, and J&K. Besides criminalisation of politics and financing of elections, the deliberations are expected to cover topics including: conduct of elections, pollling irregularities, corrupt practices apart from religion and caste-based mobilisation of voters.

"This committee will consider opinions of political leaders, academicians, journalists, legal luminaries, experts, the NGOs, scholars and other stakeholders in the field," he said.
Experts to brainstorm on election reforms

Tribune News Service

Chandigarh, January 27

Union Law Minister, Mr. Ravi Shankar Prasad, has announced the formation of a committee of experts to look into the need for electoral reforms. The objective of the committee is to recommend measures to enhance the transparency and fairness of elections. The committee will comprise experts from various fields including academia, law, and political science.

Mr. Prasad said that the committee will conduct a detailed study of the existing electoral system and will come up with recommendations for improving the process. The committee will also consider international best practices and will hold consultations with stakeholders to ensure that the recommendations are widely accepted.

The committee will be chaired by Justice (Retd) J.S. Khehar, former Chief Justice of India, and will include eminent scholars and legal experts. The committee's report is expected to be submitted within three months.

In a statement, Mr. Prasad highlighted the importance of ensuring free and fair elections and said that the committee's recommendations will play a crucial role in this regard.

The decision to form the committee was taken in the wake of the recent Lok Sabha elections, which were marred by allegations of malpractice and irregularities. The formation of the committee is seen as a step towards strengthening the electoral system and ensuring that elections are conducted in a transparent and fair manner.

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दलबदल कानून के
तहत फैसला करें
राजपूत : हुड़ा

युथ आइकॉन तलाश रहा चुनाव आयोग
कुरेशी बोले, लोगों को मतदान के
प्रति जागरूक करना जरूरी

"युवा आइकॉन लैंगिक स्थान आयोग की गंगोट्री"
राजनीतिक पार्टियों का ऑडिट करे कैग
चुनावों में काला धन रोकने को कानून मंत्री का सुझाव

चंद्रीगढ़. राजनीतिक पार्टियों हरा चुनाव प्रपक्ष के लिए कर्म धन का हेलेनाला रोकने के लिए सभी राजनीतिक पार्टियों का ऑडिट मांगने के लिए 43 फिल्मों द्वारा चंद्रीगढ़ प्रमुख नागरिक संगठन ने आमेंडल राज्यविधानसभा सत्ता संयोजन में आमिर निंदा व्यापक कर दिए गए।

सूचित मंत्री के चुनाव का समर्थन करने हुए मुख्य समूह अनुसार इसकी संरचना के नए त्योहार में कहा कि इसकी संरचना का चिंता नहीं होगा विभिन्न राजनीतिक पार्टियों के लिए हो जानें।

चुनाव प्रचार के दौरान सभी प्रचार का लेन-देन हकदर्शन अथवा अन्य जानकारी के लिए दृश्य ढंढकर दर्शन करें।
चुनाव प्रक्रिया में सुधार जरूरी: मोड़ली

किसमें क्या कहा

राजनीतिक दल भी हो क्ये के अधीन

चुनाव प्रक्रिया में...

उन्होंने न्यूयॉर्क स्कॉल ऑफ मेडिसिन के परिजनों से व्यवहार में बदलाव का मार्ग दिया। उन्होंने न्यूयॉर्क स्कॉल ऑफ मेडिसिन के परिजनों से व्यवहार में बदलाव का मार्ग दिया।
Ministers, experts discuss poll reforms

SHUNTING out criminals from the political system; ban on opinion polls and door-to-door campaigning a few days prior to elections; reforms in police system; misuse of money and muscle in politics; power to de-register political parties and more secure EVMs. These were some of the key issues raised and extensively discussed by Union ministers, politicians and legal luminaries in the sixth Regional Consultation for Electoral Reforms organised by Additional Solicitor General of India, Mohan Jain.

Stating that “election is the biggest source of corruption in India”, Chief Election Commissioner, S.Y. Quraishi said opinion polls need to be banned. Union Minister for Law and Justice, M.Veerappa Moily emphasised on the need for speedy disposal of corruption cases against politicians. Stating that separate courts may be set up to decide corruption cases within a period of one year, Moily said that there is a need for “constructive destruction” with regard to reforms.

Expressing his deep concern on the issue of booth capturing, Salman Khursheed, Union Minister for Minority Affairs and Water Resources, said the idea to introduce biometrics in the election process can be considered. Commenting on EVMs, Khursheed said, “higher level of technologies are susceptible to higher attacks”. He added that technological innovators can help in reducing booth capturing.

Some difference of opinion was also witnessed during the discussion. Pawan Bansal, Minister for Parliamentary Affairs, said no words in making his disagreement evident on a statement made by Quraishi wherein he (Quraishi) said that the proposed Bill of state funding during elections should not be cleared as quickly as the Bill to hike salaries of ministers.

Stating that the Bill for increase in salaries of ministers did take a lot of time, Bansal said, “We should not unwittingly or unwittingly say anything that puts a question mark on the system”. Bansal also added that it was he who piloted the said Bill. Bansal added, “misuse or abuse of religion needs to be checked.” He also said that “politics is too important a thing to be left to politicians alone. The Election Commission should have the right to de-register political parties”.

Quraishi, speaking in Hindi, in his unapologetic style had said that the proposed Bill for state funding “seems to be dangerous. I am scared that this Bill might enhance the problem”. He added that door to door campaigning should be banned two days prior to elections.

Mansin Tawari, National Spokesperson, All India Congress Committee laid emphasis on the need to have police reforms in all states. “There is a need to rationalise the limits of expenditure. It is surprising to note that all States are revisiting the issue of Police reforms” he said. Chief Minister of Haryana, Bhupinder Singh Hooda, said, “The mounting cost of contesting elections is at the root of political corruption. It is also linked to the increasing trend of criminalisation of electoral process”.

Molly complimented Quraishi and said that he is one of the best Chief Election Commissioners India has had.
जल्द लागू होगा न्याय का अधिकार : मोइली
Moily: 5-point agenda for tackling corruption

COLLECTIVE ONUS Graft cases to be fast-tracked, decided in yr under proposed system

Union minister for minority affairs Salman Khurshid, union law minister Veerappa Moily and Punjab governor Shivraj V Patil at the Regional Consultation for Electoral Reforms session at Chandigarh Judicial Academy on Saturday.

Sarjeet Verma
verma.sanjeev@gmail.com

CHANDIGARH: Union minister of law and justice M Veerappa Moily on Saturday conceded that elections in India are the front of corruption and that criminals are not only proliferating corruption, but are gradually sneaking into politics.

Moily was speaking at the regional consultation for electoral reforms held at the Chandigarh Judicial Academy. The event was organised by the ministry of law and justice and the election commission of India, on Saturday.

"Elections in India are the Gargori of corruption," he said.

"We have a five-point agenda for tackling corruption and are working at it with commitment. Black money is cascading and has an infectious effect on elections as well, which we need to address," stated Moily.

The law minister said the government's focus was on decreasing the pending rate of cases in various courts in the country. He said as per the new litigation policy, which is being worked out, there should not be any case pending for more than three years by December 2012. This would help check criminalisation of politics.

Moily also made a plea to set up a system whereby corruption-related cases would be fast-tracked and decided within a year, said Moily.

"On the degradation of the political system in India, Moily said crisis of character undermines the system and many colonials have already been demolished because of it.

"Politics is concerned with every citizen of India, not only politicians. Capacity building measures have to be put in place. Spirit and culture of democracy and constitution should be imbued by the people," he said.

"The educated do not even come to vote. Our democracy has survived because of the 25-35 crore illiterates who do not cast their votes."

"But people should have faith in institutions of democracy, he remarked. "Our idea is to rebuild and face the challenge, and we should not hesitate to bring reform from time to time or we will be stuck in a rut and get disillusioned," said Moily.

All praise for the election commission of India, the union minister said that the commission, with only 300 staff, is managing the gigantic task of conducting elections in a country with a population equal to that of Europe, Australia and some other countries put together. He praised Chief Election Commissioner Markandey Katju for his efforts.

He also added that the difference between what we do and what we are capable of doing would suffice to solve most of the world's problems.

Union minister for minority affairs and water resources Salman Khurshid, union minister for parliamentary affairs and water resources Piyanath Banerji, Chief Minister of Uttar Pradesh Akhilesh Yadav, Haryana chief minister Bhupinder Singh Hooda, Jammu and Kashmir Chief Minister Omar Abdullah, Haryana Union minister for home affairs and water resources taking oath in Chandigarh, and others attended the session.

"It is important that the institutions are strengthened," he said. "We have a long way to go."

Right to Justice Bill within 5-6 months

CHANDIGARH: A bill ensuring right to justice for all is expected to be introduced in Parliament in the next five to six months, Union law Minister M Veerappa Moily said.

"We are contemplating the Right to Justice Bill so that nobody should feel alienated..." Moily told reporters after addressing Congress workers at the party office here.

He said the bill will take care of access to courts, social and political justice. The bill has to be made available and accessible to everyone.

On electoral reform, the minister said it was a national agenda and not restricted to any single political party. "To prevent criminalisation of politics, a lot of things have been discussed," he said in a query.

Asked about Haryana persistent demand for a separate High Court at Chandigarh, Moily said earlier Chief Minister Bhupinder Singh Hooda had written to him and the matter was pending.

"Both the states (Haryana and Punjab) have to agree to this first. We also need to talk to (Punjab and Haryana) High Court," he said.

Earlier, he told parliament that his ministry was trying to evolve a system whereby India would be able to produce the best lawyers and advocates at the global level on the lines of successful professional bodies in the world.