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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-21



LECTURE 21: GENERAL PROCEDURE AT ELECTIONS

Chapter III of Part V deals with the procedure

52. Death of candidate of reorganised political party before poll.

(1) If a candidate, set up by a recognised political party,— (a) dies at any time after 11 A.M. on the last date for making nomination and his nomination is found valid on scrutiny under section 36; or (b) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37 dies; and in either case, a report of his death is received at any time before the publication of the list of contesting candidate under section 38; or (c) dies as a contesting candidate and a report of his death is received before the commencement of the poll, the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order announce an adjournment of the poll to a date to be notified later and report the fact to the Election Commission and also to the appropriate authority: Provided that no order for adjourning a poll should be made in a case referred to in clause (a) except after the scrutiny of all the nominations including the nomination of the deceased candidate: (2) The Election Commission shall, on receipt of a report from the returning officer under sub-section (1), call upon the recognised political party, whose candidate has died, to nominate another candidate for the said poll within seven days of issue of such notice to such recognised political party and the provisions of sections 30 to 37 shall, so far as may be, apply in relation to such nomination as they would apply to other nominations: Provided that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 37 before the adjournment of the poll shall be ineligible for being nominated as a candidate for election after such adjournment. (3) Where a list of contesting candidates had been published under section 38 before the adjournment of the poll under sub-section (1), the returning officer shall again prepare and publish a fresh list of contesting candidates under that section so as to include the name of the candidate who has been validly nominated under sub-section (2). Explanation.—For the purposes of this section, sections 33 and 38, "recognised political party" means a political party reorganised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968.

53. Procedure in contested and uncontested elections.

- (1) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken.
- (2) If the number of such candidates is equal to the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be duly elected to fill those seats.
- (3) If the number of such candidates is less than the number of seats to be filled, the returning officer

shall forthwith declare all such candidates to be elected and the [Election Commission] shall, by notification in the Official Gazette, call upon the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college concerned, as the case may be, to elect a person or persons to fill the remaining seat or seats. Provided that where the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the 2 [Election Commission] shall not be bound to call again upon the constituency, or such members to elect a person or persons 5[until it is satisfied that if called upon again, there will be no such failure on the part of the constituency or such members.

55. Eligibility of members of Scheduled Castes or Scheduled Tribes to hold seats not reserved for those castes or tribes.

For the avoidance of doubt it is hereby declared that a member of the Scheduled Castes or of the Scheduled Tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seats under the Constitution and this Act 6 [or under the Government of Union Territories Act, 1963 (20 of 1963), as the case may be.