



**RAMA
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Lecture-37



LECTURE 37: ELECTORAL OFFENCES: INTRODUCTION AND CONCEPT

Elections are considered to be a process to achieve democracy and is an indispensable element in the establishment and continuation of any democracy. India is having a Constitution that guarantees a democratic republic to its citizens. The Constitution of India gives a scheme of democratic bodies/posts as well as an independent constitutional authority bestowed with the function of conduct of free and fair elections, namely the Election Commission. Free and fair election is an indispensable part of the Indian democracy. Corrupt practices and offences related to election are those which interfere in the free exercise of right to vote and includes bribery, undue influence etc. It is very essential for us to study and understand about electoral offences, penalties and disqualification. This paper therefore deals with various provisions under the Representation of People's Act, 1951 and the Indian Penal Code which discusses electoral offences. Further, the distinctions between electoral offences and corrupt practices are also studied.

'Freedom of choice' is called the essence of democratic election. In all democratic countries, election/selection of a particular person of their choice among the other candidates for discharging certain duties is considered to be the natural right of an individual. Corrupt practices and offences related to election are those which interfere in the free exercise of right to vote and includes bribery, undue influence etc.

The electoral offences under the IPC are enumerated in chapter IXA under the heading 'Of Offences Relating to Elections'. This chapter was inserted in the Code more than 90 years ago in 1920 by the Indian Elections Offences and Inquiries Act 1920 when the concept of elections in a limited way was introduced in some of the legislative bodies under the Government of India Act 1919. Under IPC, the electoral offences are bribery at elections (s. 171B), undue influence at elections (s. 171C), personation at elections (s. 171D), false statement in connection with an election (s. 171G), illegal payments in connection with an election (s. 171H) and failure to keep election accounts (s. 171I).

❖ *The electoral offences under the Representation of People's Act, 1951 are:*

1. Promoting enmity between classes in connection with election (s. 125)
2. Filing false affidavits (s. 125A)
3. Holding of public meetings during a period of 48 hours ending with an hour fixed for conclusion of poll (s. 126)

4. Restriction on publication and dissemination of result of exit polls (s. 126A)
5. Offences by companies (s. 126B)
6. Disturbances at election meetings (s. 127)
7. Printing of pamphlets, posters without mentioning the name of publisher (s. 127A)
8. Violation of secrecy of voting (s. 128)
9. Officers or others trying to influence the voters (s. 129)
10. Canvassing in or near the polling stations (s. 130)
11. Disorderly conduct in or near polling stations (s.131)
12. Misconduct at the polling stations (s. 132)
13. Failure to observe procedure for voting (s. 132A)
14. Illegal hiring or procuring of conveyance at elections (s. 133)
15. Breaches of official duty in connection with elections (s. 134)
16. Misuse of Government servants (s. 134A)
17. Going armed to or near the polling stations (s. 134B)
18. Removal of ballot papers etc. from polling stations (s. 135)
19. Booth capturing (s. 135A)
20. Non- grant of paid holiday to employees on the employees on the day of poll (s. 135B)
21. Sale, distribution etc. of liquor on polling day (s. 135C)
22. Fraudulently tampering with nomination papers, ballot boxes, ballot papers, election records, unauthorizedly supplying ballot papers etc. (s.136)

Any conviction of an offence under s. 125, s. 135, s. 135A and s. 136(2)(a) attracts disqualification for membership of Parliament and state legislatures for a minimum period of 6 years from the date of conviction. Further, any conviction for an electoral offence committed under s. 125, s. 135 and s. 136(2)(a) also imposes disqualification for voting for a period of 6 years.