



# **FACULTY OF JURIDICAL SCIENCES**

**COURSE: BALLB/BBALLB**

**SEMESTER SUBJECT:**

**ELECTION LAWS**

**SUBJECT CODE: BALLB**

**1004/BBALLB 1004**

**NAME OF FACULTY: PANKHURI SRIVASTAVA**

# Lecture-5



## LECTURE 5: DISQUALIFICATIONS GROUNDS FOR MEMBERS UNDER REPRESENTATION OF PEOPLES ACT,

❖ *Disqualification of representatives* on conviction for certain offenses. **Section 8** states that :

- If a person contesting election is charged with any criminal charges or has been convicted for the same earlier loses his right to stand for election according to the statute. Section 8 of the Representation of People Act, 1951 provides various grounds under which a person may be disqualified on conviction for certain offenses.
- Section 8(1) states that a person convicted of an offense punishable under
  - Section 153A i.e. offense of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony or Section 171E i.e. offense of bribery or Section 171F i.e. offense of undue influence or any offense relating to rape given in Section 376 or offense of cruelty towards a woman by husband or any relative of husband or subsection (2) or (3) of Section 505 which states offense of making statement creating or promoting enmity, hatred or ill-will between classes or offense relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies; of the Indian Penal Code (45 of 1860).
- Likewise, there are various other offenses which if committed by a candidate will lead him to disqualification. **For instance:**
  - Protection of Civil Rights Act, 1955 which provides for preaching and practice of untouchability.
  - Section 11 of the Customs Act, 1962 which states the offense of importing and exporting of prohibited goods.
  - Sections 10 to 12 of Unlawful Activities (Prevention) Act, 1967 i.e. offense of being a member of an unlawful association.

- The Narcotics Drugs and Psychotropic Substances Act, 1985
- The Prevention of Corruption Act, 1988

*The 5th clause of Article 102 of constitution led the parliament to include some other conditions for disqualification in Representation of People Act (1951). These are as follows:*

1. He must not have been found guilty of certain election offences and corrupt practices.
2. 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.
3. He must not have failed to lodge an account of election expenses within stipulated time.
4. He must not have any interest in government contracts, works and services.
5. He must not be a director or managing personnel in a company / organization in which government has at least 25% share.
6. He must not have been dismissed from government service due to corruption or disloyalty to state.
7. He must not have been convicted for promoting enmity between groups.

- **Provisions in RPA 1951 related to disqualifications for voting**

**Section 11A provides for disqualification arising out of a conviction and corrupt practices.** It mentions that if any person is convicted of an offence punishable under Section 171E (offence of bribery) or Section 171F (offence of undue influence or personation at an election) of the Indian

Penal Code; or under Section 125 (Promoting enmity between classes in connection with election) or section 135 (removal of ballot paper from polling station) or Section 136(2)(a) (found guilty of some electoral offences, while being an officer in connection with the election) of RPA1951, he will be **disqualified for voting at any election for a period of six years** from the date of conviction or from the date on which the order takes effect.

Further, it provides that a person disqualified by a decision of the President under 8A (through election petition for corrupt practice) for any period will be disqualified for the same period for voting at any election. However, Section 11B provides that election commission may, for reason to be recorded, remove any disqualification except under section 8A.