

Reforming Election Nomination Process - Explained

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Nomination Process Latest News

- Frequent disqualifications of candidates on procedural grounds have reignited calls for reforming India's election nomination process to make it more transparent, fair, and citizen-friendly.

Introduction

- India's electoral process, the cornerstone of the world's largest democracy, begins long before votes are cast.
- Yet, one of its most undemocratic aspects lies in the **nomination scrutiny stage**, where candidates can be disqualified on minor procedural grounds.
- From missing signatures to delayed certificates, technicalities often override democratic principles.
- The **Representation of the People Act (RPA), 1951**, which governs this process, has accumulated layers of procedural rigidity, granting excessive discretion to Returning Officers (ROs).
- Experts now argue that this system needs urgent reform to uphold the spirit of free and fair elections.

The Legal Framework Governing Nominations

- The **Representation of the People Act, 1951**, along with the **Conduct of Elections Rules, 1961**, lays down the framework for candidate nominations.
 - **Section 33** – Specifies eligibility and procedure for filing nominations.
 - **Section 34** – Mandates security deposits by candidates.
 - **Section 36** – Grants the Returning Officer power to scrutinise nominations and reject them for “defects of a substantial character.”
- However, the term “substantial character” is undefined, giving ROs sweeping authority.
- Furthermore, **Article 329(b)** of the Constitution bars judicial review during the election process, meaning any challenge can only be raised after the polls, when the harm is already done.
- This combination of discretionary power and delayed remedy has made the nomination stage a **potential chokepoint for political exclusion**, often weaponised against opposition candidates.

Procedural Technicalities and Arbitrary Rejections

- Examples across India reveal how technicalities are misused to eliminate candidates even before campaigning begins:
 - In **Bihar**, an RJD candidate was disqualified for leaving a few fields blank in the nomination form.
 - In **Surat (2024)**, opposition candidates were rejected after proposers allegedly denied their signatures, leading to an unopposed win for the ruling party.
 - In **Varanasi (2019)**, ex-BSF jawan Tej Bahadur Yadav’s nomination was rejected for failing to obtain a certificate within a day.
 - In **Birbhum**, a former IPS officer’s form was invalidated due to a delayed “no-dues” certificate.
- Such rejections are legally valid under the current framework but **morally corrosive to democracy**. They expose how bureaucratic discretion can effectively curtail voter choice.

The Growing Burden of Compliance

- The **Supreme Court’s ruling in Resurgence India v. Election Commission (2013)**, which mandated detailed affidavits on assets and criminal records, increased procedural complexity.
- Ironically, this created a paradox: **false declarations don’t invalidate nominations, but incomplete ones do**.
- Thus, a candidate who omits a minor detail in good faith can be rejected, while one who lies outright can remain on the ballot.
- Common procedural traps include:
 - **The Oath Trap**: Candidates must take the oath after filing but before scrutiny, too early or too late renders it invalid.
 - **The Treasury Trap**: Deposits must be made via treasury challans, often disqualifying candidates who pay via incorrect modes or outside the 3 PM filing window.
 - **The Notarisation Trap**: Missing notarization of affidavits leads to automatic rejection.

- **The Certificate Trap:** Delay in “no-dues” or clearance certificates from government offices can eliminate a candidacy entirely.
- These conditions reward bureaucratic precision over democratic participation, turning the process into a **test of procedural compliance rather than popular legitimacy**.

Learning from Global Best Practices

- In contrast, other democracies treat election officials as facilitators, not gatekeepers.
 - **United Kingdom:** ROs help candidates correct minor errors before deadlines.
 - **Canada:** Provides a 48-hour window for corrections post-scrutiny.
 - **Germany:** Mandates written notice of deficiencies and opportunities for remedy.
 - **Australia:** Encourages early submission to allow corrections and appeals.
- These systems recognise that elections should promote participation, not exclusion.

Way Forward

- Experts suggest several structural reforms to make the nomination process more democratic and accountable:
- **Codify Clear Classification of Defects:**
 - *Technical Errors* (missing signatures, blank columns, typos) should not justify rejection.
 - *Authenticity Issues* (disputed signatures, false documents) should require verification.
 - *Statutory Disqualifications* (age, dual citizenship, corruption convictions) should lead to outright disqualification.
- **Guarantee a Correction Window:**
 - ROs should issue a written notice detailing the defect, citing the legal provision violated, and allow **48 hours for rectification**.
- **Mandate Reasoned Orders:**
 - Every rejection must include the specific grounds, evidence considered, and justification for why the defect is “substantial.”
- **Digital-by-Default System:**
 - The **Election Commission of India (ECI)** could develop a unified digital portal integrating voter rolls, affidavit submissions, proposer verification, and deposits.
 - A **public dashboard** could display the nomination status, ensuring transparency and minimising human discretion.

Source: **TH**

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