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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 19th March, 2002.

BILL NO. 23 OF 2002

A Bill further to amend the Representation of the People Act, 1951, the Companies Act, 1956 and the Income-tax Act, 1961.

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Election and Other Related Laws (Amendment) Act, 2002. Short title.

CHAPTER II

AMENDMENTS OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

43 of 1951.

2. After section 29A of the Representation of the People Act, 1951 (hereafter in this Chapter referred to as the principal Act), the following sections shall be inserted, namely:—

Insertion of
new sections
29B to 29D.

Political parties entitled to accept donation.

*29B. Subject to the provisions of the Companies Act, 1956, every political party may accept any amount of donation voluntarily offered to it by any person or company other than a Government company:

1 of 1956.

Provided that no political party shall be eligible to accept any donation from any foreign source defined under clause (e) of section 2 of the Foreign Contribution (Regulation) Act, 1976.

49 of 1976.

Explanation.—For the purposes of this section and section 29C,—

(a) “company” means a company as defined in section 3;

(b) “Government company” means a company within the meaning of section 617; and

(c) “donation” has the same meaning as assigned to it under section 293A,

of the Companies Act, 1956; and

1 of 1956

(d) “person” has the meaning assigned to it under clause (31) of section 2 of the Income-tax Act, 1961, but does not include Government company, local authority and every artificial juridical person wholly or partially funded by the Government.

43 of 1961.

Declaration of donation received by the political parties

29C. (1) The treasurer of a political party shall, in each financial year, prepare a report in respect of the following, namely:—

(a) the donation received by such political party from any person in that financial year;

(b) the donation received by such political party from companies other than Government companies in that financial year; and

(c) the details of expenditure incurred by the political party out of such donation.

(2) The report under sub-section (1) shall be in such form as may be prescribed and shall specifically certify that each donor from whom donation has been received is eligible under the law for the time being in force to so donate to the political party.

(3) The report for a financial year under sub-section (1) shall be submitted by the treasurer of every political party before the end of that financial year, to the Election Commission.

(4) Where the treasurer of any political party fails to submit a report under sub-section (3), then, notwithstanding anything contained under the Income-tax Act, 1961, such political party shall not be entitled to any tax relief under that Act.

43 of 1961.

Audit and accounts of donation report.

29D. (1) The accounts of donation under the report submitted to the Election Commission under sub-section (3) of section 29C shall be audited by the auditor approved by the Comptroller and Auditor-General of India, once in a financial year, to determine the expenditure on constituency campaign and expenditure on general party campaign incurred by the concerned political party.

(2) The auditor approved by the Comptroller and Auditor-General of India, in connection with the audit of the accounts of donation under the report referred to in sub-section (1), shall have the rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, vouchers and other documents and papers connected with the accounts and to inspect any of the offices of the concerned political party for the purposes of such audit.

(3) The accounts of donation under the report referred to in sub-section (1) as certified by the Comptroller and Auditor-General of India or by the auditor approved by him under sub-section (1) together with the audit report thereon specifying the expenditure on constituency campaign and expenditure on general

party campaign shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Explanation.—For the purposes of this section,—

(a) “expenditure on constituency campaign”, in relation to a political party, means the expenditure incurred for the purposes of promoting or procuring electoral success for the political party at any election, that is to say, the expenditure at such election of candidates standing in the name of the political party, but does not include any expenditure which is incurred or authorised by a candidate at an election or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive;

(b) “expenditure on general party campaign”, in relation to a political party, means the expenditure incurred by leaders of the political party on account of travel by air or otherwise for propagating programme of the political party.’

3. After section 39 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 39A.

‘39A. (1) Notwithstanding anything contained in any other law for the time being in force, the Election Commission shall, on the basis of the past performance of a political party, during elections, allocate equitable sharing of time on the cable television network and other electronic media in such manner as may be prescribed to display or propagate any election matter or to address public in connection with an election.

Allocation of equitable sharing of time.

(2) The allocation of equitable sharing of time under sub-section (1), in respect of an election, shall be made after the publication of list of contesting candidates under section 38 for the election and shall be valid till forty-eight hours before the hour fixed for poll for such election.

(3) The allocation of equitable sharing of time under sub-section (1) shall be binding on all political parties concerned.

(4) The Election Commission may, for the purposes of this section, make code of conduct for cable operators and electronic media and the cable operators and every person managing or responsible for the management of the electronic media shall abide by such code of conduct.

Explanation.—For the purposes of this section,—

(a) “electronic media” includes radio and any other broadcasting media notified by the Central Government in the Official Gazette,

(b) “cable television network” and “cable operator” have the meanings respectively assigned to them under the Cable Television Networks (Regulation) Act, 1995.’

7 of 1995

4. In section 77 of the principal Act, in sub-section (1), for *Explanations* 1 and 3, the following *Explanation* shall be substituted, namely:

Amendment of section 77.

“Explanation.—For the removal of doubts, it is hereby declared that the expenditure on general party campaign as referred to in section 29D, incurred by the leaders of a political party shall not be deemed to be the expenditure in connection with the election incurred or authorised by a candidate of that political party or his election agent for the purposes of this sub-section.”

5. After Part V of the principal Act, the following Part shall be inserted, namely:—

Insertion of new Part VA.

PART VA

FREE SUPPLY OF CERTAIN MATERIAL TO CANDIDATES OF RECOGNISED POLITICAL PARTIES

78A. (1) The Government shall, at any general election held for the purposes of constituting the House of the People or the Legislative Assembly of a State,

Free supply of copies of electoral rolls.

supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral roll, as finally published under the Representation of the People Act, 1950 and such other material as may be prescribed.

43 of 1950.

(2) The material referred to in sub-section (1) shall be supplied,—

(i) subject to such conditions as may be imposed by the Central Government in consultation with the Election Commission with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77; and

(ii) through such officers as may be specified by the Election Commission who shall act in accordance with such general or special directions as may be given by the Election Commission.

Supply of
identity slips
of electors to
candidates.

78B. (1) The Election Commission shall, at any time between the date of publication of the notification calling the election and the date on which the poll is to be taken, supply or cause to be supplied identity slips of electors in the constituency concerned and other items as may be prescribed to the candidates set up by the recognised political parties.

(2) Where the Election Commission supplies the identity slips or other items to the candidates under sub-section (1), the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77.

Explanation.—For the purposes of this Chapter and clauses (hh) and (hhh) of sub-section (2) of section 169, the expression “recognised political party”, has the meaning assigned to it in the Election Symbols (Reservation and Allotment) Order, 1968.

Amendment of
section 123.
Amendment of
section 169

6. In section 123 of the principal Act, in clause (7), the proviso shall be omitted.

7. In section 169 of the principal Act, in sub-section (2),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) the form of donation report;”;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(bb) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;”;

(iii) after clause (h), the following clauses shall be inserted, namely:—

“(hh) the material to be supplied by the Government to the candidates of recognised political parties at any general election held for the purposes of constituting the House of the People or the Legislative Assembly of a State;

(hhh) the items to be supplied by the Election Commission to the candidates set up by the recognised political parties;”.

CHAPTER III

AMENDMENT OF THE COMPANIES ACT, 1956

Amendment
of section
293A of Act.

8. In section 293A of the Companies Act, 1956, after sub-section (5), the following *Explanation* shall be inserted, namely:—

1 of 1956.

Explanation.—For the purposes of this section, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951.

43 of 1951.

CHAPTER IV

AMENDMENTS OF THE INCOME-TAX ACT, 1961

- 43 of 1961. 9. In section 13A of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act),—
- Amendment of section 13A.
- (i) in the proviso, in clause (b), for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted;
- (ii) after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:—
- "Provided further that if the treasurer of such political party fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 for a financial year, no exemption under this section shall be available to that political party for such financial year.";
- 43 of 1951. (iii) for the *Explanation*, following *Explanation* shall be substituted, namely:—
- "*Explanation.*—For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951."
- 43 of 1951. 10. In section 87 of the Income-tax Act,—
- Amendment of section 87.
- (i) in sub-section (1), for the figures, letters and word "88B and 88C", the figures, letters and word "88B, 88C, 88D and 88E" shall be substituted;
- (ii) in sub-section (2), after the word, figures and letter "section 88C", the words, figures and letters "or section 88D or section 88E" shall be inserted.
11. After section 88C of the Income-tax Act, the following sections shall be inserted, namely:—
- Insertion of new sections 88D and 88E.
- 88D In computing the amount of income-tax on the total income of an Indian company with which it is chargeable for any assessment year, there shall be allowed from the amount of income (as computed before allowing the deduction under this section) a deduction of an amount contributed directly or indirectly to any political party or for any political purpose to any person.
- Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this section, the word "contribute", with its grammatical variation, has the meaning assigned to it under section 293A of the Companies Act, 1956 and includes the donation accepted by the political parties in pursuance of section 29B of the Representation of the People Act, 1951.
- 1 of 1956. 88E. In computing the amount of income-tax on the total income of the assessee, being any person, except local authority and every artificial juridical person wholly or partially funded by the Government, resident or having place of business, in India, or outside India, with which it is chargeable for any assessment year, there shall be allowed from the amount of income (as computed before allowing the deduction under this section) a deduction of an amount donated to a political party.
- Tax relief in relation to donation given by any person to political parties.
- 43 of 1951. *Explanation.*—For the purposes of sections 88D and 88E, a "political party" means the political party which is registered under section 29A of the Representation of the People Act, 1951."
- 43 of 1951.

STATEMENT OF OBJECTS AND REASONS

The Government is continuously exploring ways and means of bringing about reforms in electoral laws with a view to making the electoral process clean, fair and free from corrupt influences. In this regard, the Government has before its various recommendations made by different bodies/individuals like the Committee on Electoral Reforms (Dinesh Goswami Committee), the Committee on State Funding of Elections (Indrajit Gupta Committee), the Election Commission of India, the Law Commission of India (170th Report on Reform of Electoral Laws), etc. The Indrajit Gupta Committee, which was constituted pursuant to a decision taken in the all-party meeting held on 22.5.1998, considered, *inter alia*, the issues of State funding of elections and other related proposals pertaining to maintenance of accounts by political parties and audit thereof, ban on donations by companies to political parties, inclusion of expenses of political parties in the election expenses of candidates for the purposes of ceiling on election expenses, etc., on which recommendations had been made by the Dinesh Goswami Committee in 1990. The Committee submitted its report to Government on 14.1.1999. The object of the Bill is to implement some of the recommendations of the Indrajit Gupta Committee as further considered in the light of the views expressed by the State Governments, political parties as expressed in the all-party meeting held on 13.9.2001, Chambers of Commerce and various concerned Ministries/Departments of the Central Government, etc.

2. The Bill seeks to bring transparency in the funding of the political parties by the corporate sector and by other persons by streamlining and promoting the donations received by the political parties for elections by giving suitable tax-exemptions and withdrawal thereof in specified circumstances. In this connection, it may be stated that section 293A inserted in the Companies Act, 1956 in 1960 provided for contribution by the companies to the political parties. After severe criticism of the role of money power in the politics, the Companies (Amendment) Act, 1969 prohibited making of political contributions and also made it punishable. Section 293A was again amended in 1985 allowing the corporate sector to play its legitimate role in the functioning of the Indian democracy, within the defined norms. The Dinesh Goswami Committee was of the considered view that the donations made by companies to political parties be completely banned. However, the Indrajit Gupta Committee left the decision in this regard to the wisdom of Parliament and the Government. The corrupting influence of money in politics has, however, not abated despite these legislative remedies.

3. The Bill also seeks to address the problems arising out of insertion of *Explanation 1* to section 77(1) of the Representation of the People Act, 1951 which permits political parties and all other bodies or associations or individuals to make election expenses for a candidate without his authorisation. *Explanation 3* thereto is also sought to be deleted.

4. The Bill further seeks to make provisions for allocation of equitable sharing of time on the cable television network and other electronic media for the purposes of election campaign as well as State funding in kind in respect of supply of free

copies of electoral rolls to the candidates by the Government and for supply of identity slips of electors and other prescribed items by the Election Commission to the candidates.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 11th March, 2002.

ARUN JAITLEY.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. H. 11019/9/99, dated the 11th March, 2002 from Shri Arun Jaitley, Minister of Law, Justice and Company Affairs to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed Bill, recommends under clauses (1) and (3) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Election and Other Related Laws (Amendment) Bill, 2002 to Lok Sabha and also recommends to Lok Sabha the consideration of the Bill.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to insert section 39A after section 39 in the Representation of the People Act, 1951. The proposed section 39A relates to allocation of equitable sharing of time for the purposes of election campaign. The time shall be allocated in the prescribed manner on the cable television network and other electronic media. The electronic media includes radio and any other broadcasting media notified by the Central Government in the Official Gazette. This may involve costs for the Government owned or controlled media.

2. Clause 5 of the Bill seeks to insert new Part VA in the Representation of the People Act, 1951 relating to partial State funding in kind. The proposed section 78A relates to the free supply of copies of electoral rolls, as finally published under the Representation of the People Act, 1950, to the candidates by the Government. The proposed section 78B provides for supply of identity slips of electors and other prescribed items by the Election Commission to the candidates.

3. The Bill, if enacted, would involve annual recurring expenditure and a non-recurring expenditure from the Consolidated Fund of India. It is, however, not possible to calculate the estimate of the expenditure involved in the purported measures as it is not possible to anticipate with any accuracy the number of contestants in an election as well as the number of voters in any constituency in view of the continuous change in their numbers on various accounts.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill seeks to amend section 169 of the Representation of the People Act, 1951 by inserting clauses (aa), (bb), (hh) and (hhh) after clauses (a), (b) and (h) respectively in sub-section (2) thereof. The proposed clauses (aa), (bb), (hh) and (hhh) empower the Central Government to make rules to provide for the form of donation report, the manner of allocation of equitable sharing of time on the cable television network and other electronic media, the material to be supplied by the Government to the candidates of recognised political parties at any general election held for the purposes of constituting the House of the People or the Legislative Assembly of a State and the items to be supplied by the Election Commission to the candidates set up by the recognised political parties respectively.

2. The matters, in respect of which such rules may be made, are matters of detail and may hardly be provided for in the Bill. The delegation of legislative power is, therefore, of a normal character.

G. C. MALHOTRA,
Secretary-General.