

THE PRESIDENTIAL AND VICE-PRESIDENTIAL
ELECTIONS (AMENDMENT) ACT, 1977

No. 20 OF 1977

[5th July, 1977]

An Act further to amend the Presidential and Vice-Presidential
Elections Act, 1952.

BE it enacted by Parliament in the Twenty-eighth Year of the Republic
of India as follows:—

1. This Act may be called the Presidential and Vice-Presidential
Elections (Amendment) Act, 1977.

Short
title.

2. In the Presidential and Vice-Presidential Elections Act, 1952, for
Part III, the following Part shall be substituted, namely:—

Substitu-
tion of
new Part
for Part
III of Act
31 of 1952.

‘PART III

DISPUTES REGARDING ELECTIONS

13. In this Part, unless the context otherwise requires,—

Defini-
tions.

(a) “candidate” means a person who has been or claims to
have been duly nominated as a candidate at an election;

(b) “costs” means all costs, charges and expenses of, or inci-
dental to, a trial of an election petition;

(c) “returned candidate” means a candidate whose name has
been published under section 12 as duly elected.

14. (1) No election shall be called in question except by present-
ing an election petition to the authority specified in sub-section (2).

(2) The authority having jurisdiction to try an election petition
shall be the Supreme Court.

Authority
to try
election
petitions.

(3) Every election petition shall be presented to such authority
in accordance with the provisions of this Part and of the rules made
by the Supreme Court under article 145.

Presentation of petition.

14A. (1) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19, to the Supreme Court by any candidate at such election, or—

(i) in the case of Presidential election, by twenty or more electors joined together as petitioners;

(ii) in the case of Vice-Presidential election, by ten or more electors joined together as petitioners.

(2) Any such petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12, but not later than thirty days from the date of such publication.

Form of petitions, etc., and procedure.

15. Subject to the provisions of this Part, rules made [whether before or after the commencement of the Presidential and Vice-Presidential Elections (Amendment) Act, 1977] by the Supreme Court under article 145 may regulate the form of election petitions, the manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, and may require security to be given for costs.

Relief that may be claimed by the petitioner.

16. A petitioner may claim either of the following declarations:—

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

Orders of the Supreme Court.

17. (1) At the conclusion of the trial of the election petition, the Supreme Court shall make an order—

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) At the time of making an order under sub-section (1), the Supreme Court shall also make an order fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

Grounds for declaring the election of a returned candidate to be void.

18. (1) If the Supreme Court is of opinion,—

(a) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the consent of the returned candidate; or

(b) that the result of the election has been materially affected—

(i) by the improper reception or refusal of a vote; or

(ii) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act; or

(iii) by reason of the fact that the nomination of any candidate (other than the successful candidate), who has not withdrawn his candidature, has been wrongly accepted; or

(c) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate has been wrongly accepted;

the Supreme Court shall declare the election of the returned candidate to be void.

(2) For the purposes of this section, the offences of bribery and undue influence at an election have the same meaning as in Chapter IXA of the Indian Penal Code.

45 of 1860.

19. If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected:

Grounds for which a candidate other than the returned candidate may be declared to have been elected.

Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

20. The Supreme Court shall, after announcing the orders made under section 17, send a copy thereof to the Central Government, and on receipt of such copy the Central Government shall forthwith cause the order to be published in the Official Gazette.

Transmission of orders to the Central Government and its publication.