

THE REPRESENTATION OF THE PEOPLE (THIRD AMENDMENT)
ACT, 2002

No. 72 OF 2002

[28th December, 2002.]

An Act further to amend the Representation of the People Act, 1951.

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

1. (1) This Act may be called the Representation of the People (Third Amendment) Act, 2002.

Short title and commencement.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be deemed to have come into force on the 24th August, 2002.

43 of 1951.

2. After section 33 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Insertion of new section 33A.

“33A. (1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (1) of section 33, also furnish the information as to whether—

Right to information.

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence [other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8] and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form verifying the information specified in sub-section (1).

(3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.”

Insertion of
new section
33B.

3. After section 33A of the principal Act as so inserted, the following section shall be inserted and shall be deemed to have been inserted with effect from the 2nd day of May, 2002, namely:—

Candidate to
furnish infor-
mation only
under the Act
and the rules.

“33B. Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.”

Insertion of
new Chapter
VIIA.

4. In Part V of the principal Act, after Chapter VII, the following Chapter shall be inserted, namely:—

‘CHAPTER VIIA

DECLARATION OF ASSETS AND LIABILITIES

Declaration
of assets and
liabilities.

75A. (1) Every elected candidate for a House of Parliament shall, within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Third Schedule to the Constitution, for taking his seat in either House of Parliament, furnish the information, relating to—

(i) the movable and immovable property of which he, his spouse and his dependant children are jointly or severally owners or beneficiaries;

(ii) his liabilities to any public financial institution; and

(iii) his liabilities to the Central Government or the State Government,

to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(2) The information under sub-section (1) shall be furnished in such form and in such manner as may be prescribed in the rules made under sub-section (3).

(3) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may make rules for the purposes of sub-section (2).

(4) The rules made by the Chairman of the Council of States or the Speaker of the House of the People, under sub-section (3) shall be laid, as soon as may be after they are made, before the Council of States or the House of the People, as the case may be, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the Council of States or the House of the People and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(5) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may direct that any wilful contravention of the rules made under sub-section (3) by an elected candidate for a House of Parliament referred to in sub-section (1) may be dealt with in the same manner as a breach of privilege of the Council of States or the House of the People, as the case may be.

Explanation.—For the purposes of this section,—

(i) “immovable property” means the land and includes any building or other structure attached to the land or permanently fastened to anything which is attached to the land;

- (ii) "movable property" means any other property which is not the immovable property and includes corporeal and incorporeal property of every description;
- 1 of 1956. (iii) "public financial institution" means a public financial institution within the meaning of section 4A of the Companies Act, 1956 and includes bank;
- (iv) "bank" referred to in clause (iii) means—
- 23 of 1955. (a) State Bank of India constituted under section 3 of the State Bank of India Act, 1955;
- 38 of 1959. (b) subsidiary bank having the meaning assigned to it in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;
- 21 of 1976. (c) Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976;
- 10 of 1949. (d) corresponding new bank having the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949; and
- 10 of 1949. (e) co-operative bank having the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949 as modified by sub-clause (i) of clause (c) of section 56 of that Act; and
- (v) "dependant children" means sons and daughters who have no separate means of earning and are wholly dependant on the elected candidate referred to in sub-section (1) for their livelihood.

5. After section 125 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 125A.

"125A. A candidate who himself or through his proposer, with intent to be elected in an election,—

Penalty for filing false affidavit, etc.

- (i) fails to furnish information relating to sub-section (1) of section 33A; or
- (ii) gives false information which he knows or has reason to believe to be false; or
- (iii) conceals any information,

in his nomination paper delivered under sub-section (1) of section 33 or in his affidavit which is required to be delivered under sub-section (2) of section 33A, as the case may be, shall, notwithstanding anything contained in any other law for the time being in force, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both."

6. In section 169 of the principal Act, in sub-section (2), clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

Amendment of section 169.

"(a) the form of affidavit under sub-section (2) of section 33A;"

Ord.
4 of 2002.

7. (1) The Representation of the People (Amendment) Ordinance, 2002 is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.