

Bill No. 174 of 2016

THE CONSTITUTION (AMENDMENT) BILL, 2016

By

SHRI FEROZE VARUN GANDHI, M.P.

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further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint:

Short title
and
commencement.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of
article 324.

2. In article 324 of the Constitution,—

(a) for clause (2), the following clauses shall be substituted, namely:—

“(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the president, may, in consultation with the Committee of Appointments, from time to time, fix.

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(2A) The appointment of Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President on the recommendations of the Committee of Appointments.

(2B) There shall be a Committee of Appointments consisting of—

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(i) the Prime Minister— Chairperson;

(ii) The Speaker of the House of the People— Member;

(iii) the Leader of the Opposition in the Council of States— Member;

(iv) the Leader of the Opposition in the House of the People— Member;

(v) the Chief Election Commissioner of India— Member; and

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(vi) **one retired judge of Supreme Court of India to be nominated by the Chief Justice of India—** Member.

Explanation.—For the purposes of this clause, “the Leader of the Opposition in the House of the People” or “the Leader of the Opposition in the Council of States” shall, when no such leader has been so recognized, include the Leader of the single largest group in Opposition of the Government in the House of the People or the Council of States, as the case may be.

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(2C) The Committee of Appointments shall recommend to the President the name of person for appointment as the Chief Election Commissioner, the Election Commissioner or the Regional Commissioner.”; and

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(b) in clause (4), for the words, "after consultation with Election Commission", the words "on the recommendation of the Committee of Appointments" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The success of Indian democracy is considered to be its ability to conduct elections in a free and fair manner in a country which is divided on linguistic, racial and religious basis. It was with this idea that Election Commission of India was formed as an autonomous body to look over the violation in Representation of People Act, 1950 and to conduct free and fair elections.

Participating in the Constitutional Assembly Debates, Dr. Ambedkar, the Chairman of the Drafting Committee, on Election Commission said: *It has been brought to the notice of both the drafting committee as well as Central Government that in these provinces the executive Government is instructing or managing things in such a manner that those people who do not belong to them either racially, culturally or linguistically, are being excluded from being brought on the electoral rolls. The House will realize that franchise is a most fundamental thing in a democracy. No person who is entitled to be brought into the electoral rolls on grounds which we have already mentioned in our Constitution, namely, an adult of 21 years of age should be excluded merely as a result of the prejudice of a Local Government, or whim of an officer. That would cut at the very root of democratic Government.*

The appointment of Chief Election Commissioner and Election Commissioners through an autonomous body which includes representatives from Judiciary, Executive, Politics and Election body itself will provide for an impartial appointment of the Commissioners without due interference from the sitting Government.

The reported weightage given to various high profile politicians or politicians in power as compared to the political parties in oppositions and other politicians, in the matter of appointment of the Chief Election Commissioner and other Election Commissioners, is one of the issues raised by political parties and reflects upon the politicisation of Election Body.

As elections are supposed to be completely impartial in nature, the very guardians of this impartiality *i.e.* Election Commission of India should also be chosen on the principle of independence from political influence.

Thus a body which will have representation from across the aisle and various pillars of democracy will allow for independent appointments and thus raising the stature of the Election Commission of India itself.

Hence this Bill.

NEW DELHI;
July 5, 2016.

FEROZE VARUN GANDHI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for appointment of a retired judge of the Supreme Court as Member of the Committee of Appointments. It will involve nominal expenditure on account of Payment of TA/DA and other remuneration to the retired judge as and when the meetings of the Committee of Appointments are held. Since it is not possible to estimate the TA/DA and remuneration which shall be paid when the meetings are held, it is, therefore, at this stage, not possible to estimate the exact amount which will be involved from the Consolidated Fund of India.

No other expenditure will be involved.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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PART XV

ELECTIONS

324. (1) * * * * *

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners. If any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

Superintendence, direction and control of elections to be vested in an Election Commission.

(3) * * * * *

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the election Commission in the performance of the functions conferred on the Commission by clause (1).

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further to amend the Constitution of India.

(Shri Feroze Varun Gandhi, M.P.)