



## Let The Grassroots Breathe

This article is related to General Studies-  
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### "Local bodies must not be administrative vessels for implementing programmes of the Central and State governments."

One of the first decisions of the newly elected Ashok Gehlot government in Rajasthan has been to scrap the minimum educational qualification criteria for candidates contesting local body elections. This reverses the amendments introduced by the previous government of the BJP in 2015 which required candidates contesting the zila parishad and panchayat samiti elections to have passed Class 10 and those contesting sarpanch elections to have passed Class 8. Further, it disallowed those without functional toilets in their home to contest. Following this, Haryana also introduced similar restrictions for contesting local body elections.

The decisions by the Rajasthan and Haryana governments were widely criticised and also challenged in the courts. However, in December 2015, a two-judge Bench of the Supreme Court in *Rajbala v. State of Haryana* upheld the validity of the amendments to the Haryana Panchayati Raj Act. In a contentious judgment authored by Justice J. Chelameswar, the court held that prescription of educational qualification was justifiable for better administration and did not violate the right to equality enshrined in the Constitution. The latest decision of the Gehlot government has once again revived the debate on the fairness of having such restrictions.

Prescribing educational qualifications for contesting elections is problematic in multiple ways. Fundamentally, it unduly restricts a citizen's right to contest elections and thereby challenges the basic premise of a republican democracy. Denying the right to contest effectively restricts the right of a citizen to vote for a candidate of her choice since more than half the population is restricted from contesting. Further, it disproportionately disenfranchises the more marginal sections of society: women, Dalits and poor. In a country like India with unequal access to education, it is cruel to blame citizens for the failure of the state to fulfil its constitutional obligations. The decision by the Gehlot government is hence a necessary corrective to an unjust rule.

#### Rationale for restrictions

Beyond the correctness of these decisions, it is also important to look at the underlying rationale for introducing educational qualifications specifically for local government elections. After all, such restrictions do not exist for those contesting parliamentary or Assembly elections. In fact, in the present Lok Sabha, 13% of MPs are under-matriculates, a share higher than those of women MPs.

These restrictions reveal that State governments and courts do not value local governments for their representative character. In *Rajbala*, the court held that prescription of educational qualification is relevant for "better administration of the panchayats". On the one hand, this is based on an ill-informed assumption that those with formal education will be better in running panchayats. On the other, it reveals that State governments and courts place a premium on administration over representation in case of local governments.

This approach goes against the very objective of the 73rd and 74th Amendments that sought to make panchayats and municipalities representative institutions with adequate representation from Scheduled Castes, Scheduled Tribes and women. Though local governments now have a definite space within India's constitutional structure, they are still seen as administrative vessels for implementing programmes of the Central and State governments. The disqualification of candidates who don't have toilets in their home or defecate in open is clearly an example where the implementation of a Central programme like the Swachh Bharat Mission gets precedence over the need for representative government.

#### Denying local democracy

The undermining of local governments as representative institutions does not take place solely through the introduction of restrictions for contesting elections. Often it takes a more brazen form: not holding elections to local governments. Over the years, many State governments have sought to defang local governments by simply delaying elections on various grounds. Elections to panchayats and municipalities in Tamil Nadu have not been held since 2011. In Visakhapatnam, elections to its Municipal Corporation were last held in 2007. These local governments now function as bureaucratic machines without an elected council to hold them accountable.

The continual delay in elections goes against the purpose of the 73rd and 74th Amendments which listed the "absence of regular elections" and "prolonged supersessions" as stated reasons behind their introduction. These amendments also mandated the creation of a State Election Commission (SEC) in each State for the preparation of electoral rolls and the conduct of elections to panchayats and municipalities. However, in most States, tasks like delimitation of



seats are still done by the State government instead of the SEC. It is often under the guise of delimitation of seats that local government elections are delayed, especially when the party in power fears losses.

India prides itself as a robust democracy, at least in the procedural sense, with regular elections and smooth transfer of power. However, the absence of elected councils in some local governments punches holes in this claim. The lack of alarm caused by the denial of local democracy reveals our collective bias regarding the place of local governments. Delaying elections and adding restrictions to contest prevent local governments from becoming truly representative institutions.

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### Eligibility of Candidates in Elections

#### Why in the discussion?

- Recently, Ashok Gehlot Government of Rajasthan has abolished the academic qualification in the elections of Panchayati Raj Institutions in the first meeting of the Cabinet.
- Apart from this, the decision has also been taken to end the compulsions of academic qualification in Panchayatiraj and local body elections.
- Earlier, it was compulsory for Sarpanch, Zilla Parishad and Panchayat Samity member to be eligible for Class 10 pass.

#### Features of the 73rd Amendment Act

- This 73rd Amendment Act 1993, a new part, part IX and new Schedule 11th Schedule were added to the Constitution and the Panchayat Raj system has been given constitutional status.

#### The following are the key features of this Act:

- Gram Sabha- Gram Sabha will use such powers at the level of the village and will do such tasks which the state legislature makes available by making the law.
- **Formation of Panchayats** - Article 243 B provides for three-tier Panchayati Raj. Panchayati Raj institutions will be formed at each level of the village level, intermediate level and district level, but in that state whose population is not more than 20 lakh, it will not be necessary to constitute Panchayats at the intermediate level.
- **Election** - Election of all Gram Panchayats at the Panchayat level will be direct and there will be indirect elections at the level of District Council. The choice of election of the president of intermediate level be direct or indirectly will be fixed by the concerned State Government.
- The period of every Panchayat body will be five years. If the state government dissolves the panchayat before completion of 5 years, then new elections should be held within 6 months. This important provision is to ensure the existence of elected local bodies.
- Prior to the 73rd amendment, before elections in many states, the election of district Panchayat Bodies was indirect in many states and there was no provision in regard to holding immediate elections after dissolution of Panchayat institutions.
- **Reservation** - In the total places of Panchayati Raj Institutions, 1/3 places are reserved for women and for the scheduled castes and tribes, the place will be reserved based on the proportion of their population.

- If the state government considers it necessary, then it can also give reservation to the other backward classes. Reservations have been made for the post of Chairperson at the all three levels.

□ **Members' qualifications** - the citizen has attained the age of 21 years.

□ The person has the ability to be elected to the State Legislature (other qualifications other than the age) under the enforced methods.

□ He is eligible to be elected a member of Panchayat under the law made by the respective State Legislature.

#### 74th Amendment Act, 1992

□ In the year 1992 AD, 74th Constitutional Amendment was made and a new part IX A of the Constitution was added.

□ Under this, a specific direction has been given regarding the organization and work of municipalities. According to this, the following characteristics of municipalities can be mentioned -

- i) There will be three types of urban institutions in each state - a) Nagar Panchayat in areas which are being converted from rural to urban, b) Municipal council for small urban areas and c) Municipal corporation for large urban areas.
- ii) Reservation arrangements have been made for the election of members. The place for the Scheduled Castes and Scheduled Tribes will remain reserved, in the ratio of population of the city. Of these, 1/3 places will be reserved for scheduled caste and tribal women. Only 1/3 of the entire members will be reserved for women.
- iii) Tenure of municipalities will be fixed for 5 years. The new municipality election should be completed six months before the expiry of the term.
- iv) The responsibility of conducting elections in municipalities will be of the State Election Commission.
- v) The state government by making laws will decide the Scheduled Caste, Scheduled Tribe and the place of women in the post of chairperson of the Nagarpalika.
- vi) The 12th Schedule of Constitution has been added in the Constitution and the list of works to be completed by various municipalities has been fixed, such as urban planning, urban and rural development programs, Roads and bridges, water supply, public health, etc.



### Expected Questions (Prelims Exams)

**1. Consider the following statements-**

1. Preparation for electoral roll and supervision of election of local authorities are done by State Election Commission.
2. The delimitation of seats in the election of local authorities are done by State Election Commission.

Which of the above statements is/are correct?

- (a) Only 1                      (b) Only 2  
(c) Both 1 and 2            (d) Neither 1 nor 2

### Expected Questions (Mains Exams)

- Q. Local authorities can be seen as an important administrative tool to implement various schemes of central and State Governments. Discuss. (250 Words)**

**Note:** Answer of Prelims Expected Question given on 10 Jan. is 1(d).

