

ELECTION LAWS, RULES, ECI INSTRUCTIONS MAINLY INCLUDE (list is not exhaustive):

1. Provisions in the Constitution of India
2. The Representation of the People act, 1950
3. The Representation of the People act, 1951
4. Specific Provisions in the Indian Penal Code, 1860
5. The Delimitation Act, 2002
6. The Parliament (Prevention of Disqualification) Act, 1959
7. The Registration of Electors Rule, 1960
8. The Conduct of Election Rules, 1961
9. The Election Symbols (Reservation and Allotment) Order, 1968
10. ECIs handbook for Returning Officers
11. ECIs handbook for Candidates
12. ECIs handbook for Presiding Officers
13. ECIs handbook for Polling Agents
14. ECIs handbook for Counting Agents
15. Compendium of Instructions for the Conduct of Elections, Volumes I, II, III, and IV

All the above and others can be accessed on <http://eci.nic.in>. This site can also be used for further readings.

CASE STUDY.

Shri Rameshbhai Patel had been issued an Electoral Photo Identity Card (EPIC) in 2007. At that time he was living in B-302, Sharnam Apartments, Ahmedabad. Recently he has shifted to B-401, Satyam Apartments which is very close to his previous address. He approached the Electoral Registration Officer(ERO) to issue him fresh EPIC with the changed address. The ERO told him to fill the relevant forms to enable him to do the same. Shri Rameshbhai Patel was very up-set and he complained to the Collector that he was being unnecessarily harassed by the ERO. Is the ERO taking the correct stand in this case?

The Electoral Photo Identity Cards are issued to every voter on the basis of the entries made for him in the Electoral Roll of the Assembly Constituency where his address is located. Therefore, without first changing the entry in the Electoral Roll it is not possible to make any changes in the EPIC held by any voter. In the present case, since Shri Patel has shifted his address from one place to another within the same Assembly Constituency, therefore he is required to fill up Form 8A and submit the same to the ERO. The ERO will then get it scrutinized through his Assistant Electoral Registration Officer (AERO) and the

Booth Level Officer (appointed one for each booth). After scrutiny, the ERO is authorized by law to call for more evidence, if required, from the applicant. After completely satisfying himself, the ERO makes the entry as per the application of Shri Rameshbhai Patel in the Electoral Roll Management Software (ERMS) which has become operational in Gujarat since October, 2010. Once the entry is approved online by the ERO, the modification is made in the Electoral Roll. It is only after this process is completed that the fresh EPIC can be issued. Hence, the ERO in this case is taking the correct stand. (Please see answer to Question 16 below for more details).

QUESTIONS AND ANSWERS

Q.1 When was the Election Commission of India (ECI) established?

Ans. The ECI was established on 25th January, 1950. It celebrated its Diamond Jubilee on 25th January, 2010.

Q.2 What is the constitution of ECI and what are the elections it is responsible for?

Ans. It consists of 1 Chief Election Commissioner and 2 Election Commissioners appointed by the President of India, each having tenure of up to 6 years or age of 65 years whichever is earlier. The Secretariat of the Commission is at New Delhi.

The ECI is responsible for the conduct of elections to the Lok Sabha, Rajya Sabha, all Vidhan Sabhas, all Legislative Councils, and elections for the post of the President and the Vice-President.

Q.3 Who elects the President of India?

Ans. The President of India is elected by the members of an electoral college consisting of elected members of the Lok Sabha and Rajya Sabha and the elected members of the Legislative Assemblies of the States as per Article 54 of Constitution of India (CoI)

Q.4 What does the Parliament consist of?

Ans. The Parliament consists of the President and two Houses i.e. Council of the State and the House of the People (Article 79 of CoI)

Q.5 What is the total number of seats in the Lok Sabha (Lower House of Parliament)?

Ans. 545 – out of these 543 are elected through direct elections and 2 members of Anglo Indian community are appointed by the President of India.(Article 81 & 331 of constitution of India)

Q.6 How many members are there in the Rajya Sabha?

Ans. There are 238 members elected by the Vidhan Sabha and 12 members nominated by the President of India as representatives of Literature, Science, Art, etc. (Article 80 of constitution of India)

Q.7 What is the maximum term upto which Rajya Sabha members and Lok Sabha Members can serve ?

Ans . Rajya Sabha Members – 6 years.
Lok Sabha Members - 5 years.
(Article 83 of constitution of the India)

Q.8 Who can be a member of the Parliament?

Ans. Any person who is a citizen of India and is at least 30 years can contest for becoming a member of Rajya Sabha, or who is at least 25 years of age can contest to become a Member of the Lok Sabha. Such a person should also possess the qualifications as may be prescribed under any law made by the Parliament, and should not possess any disqualification prescribed under constitution and law made by parliament. particularly those given under the Representation of the Peoples Act, 1951
(Article 84 & 102 of constitution of India).

Q.9 Why is Article 324 of the Constitution of India considered as the provision from which the Election Commission of India derives its authority?

Ans. Article 324 of the Constitution of India clearly lays down that the superintendence, direction and control of the preparation of the electoral rolls for all elections and the conduct of elections to the parliament and to the legislature of all States and all elections to the office of the President and Vice President are vested in the Election Commission of India.

Q.10 Who is entitled to be registered as a voter?

Ans. Every person who is a citizen of India and who has attained 18 years of age on the 1st day of January of the given year for which the electoral rolls are being prepared, is entitled to be registered as voter. (Article 326)

Q.11 Who are the officers connected with the process of preparation of Electoral Rolls for conduct of elections?

Ans. The officers connected with this include the Chief Electoral Officer at the State level, District Electoral Officers at the district level and Electoral Registration Officers (EROs) and Assistant Electoral Registration Officers (AEROs) at the Assembly Constituency level. This is laid down in section 13(A) to 13(CC) of the Representation of People Act, 1950.

Q.12 What are the main duties of the Chief Electoral Officer (CEO) of the State?

Ans. 1. To conduct elections to the Lok Sabha, Vidhan Sabha, Rajya Sabha and for the President and Vice President;
2. To prepare Electoral Roll (Matdar Yadi);
3. To issue EPIC (Election Photo Identity Card) etc in the state as per the directions and instructions of the ECI. (Section 13A of R.P.Act 1950 and Section 20 of R.P.Act 1951)

Q.13 What is Photo Electoral Roll?

Ans. Now the electoral roll prepared each year showing the voter-wise details of name, age and address, also contains photograph of each voter. This was introduced for the first time in Gujarat in 2008.

Q.14 How often is the electoral roll revised/updated?

Ans. The electoral roll is updated every year with reference to the qualifying date which is 1st January of that year. There are 2 ways of revising the electoral roll – (i) summary revision, (ii) intensive revision. The summary revision is done every year by declaring a program schedule beforehand. The intensive revision is done only when the Election Commission specifically decides to declare a schedule for it. In intensive revision, house to house visits form the basis of revision of rolls. Summary Revision does not have this component. But a citizen can get registered by getting their name added, deleted, or details modified during any time of the year as well, by sending their application forms to the concerned Electoral Registration Officer or Assistant Electoral Registration Officer.

As per Section 21 (2) of R.P.Act 1950 Electoral Roll is required to be revised (1) before each general election to the house of the people or to the Legislative Assembly of the state and (2) before each by Election unless otherwise directed by the ECI for reason to be recorded in writing.

Q.15 What is the procedure for becoming a voter?

Ans. You can download the various application formats from the website, or take it from the office of the Mamlatdar in a Taluka, Prant officer in a sub-division or Collector's office. The Collector is the District Election Officer for the purposes of supervising the preparation of the electoral roll.

1. If you are eligible to be a voter and registering for the first time as voter, you need to fill up Form no. 6 and submit along with proof of residence, age proof and photograph.
2. If you are already a voter in one Assembly Constituency, say Sabarmati and have shifted to another AC, say Sankheda, then you have to fill up

- Form 6 in Sankheda to register as a voter and Form 7 in Sabarmati to get your name deleted from the list there.
3. If you have shifted from one society to another within the same Assembly Constituency, then you have to fill your details in Form 8A to get your name put in the rolls in the correct part . In such cases Form 6 need not be filled.
 4. Form 7 is to be filled up for all cases where deletion is required from the rolls (with the exception of serial no.3 above), example on account of death, shifting due to transfer, marriage, work, etc.
 5. If your name is there in the electoral rolls but there is some correction required in any of the printed details, then you need to fill up Form 8.
 6. If you are a person staying overseas with an Indian passport you need to fill up form 6A.
- **Can a citizen get his name enrolled in the Electoral roll at any time if he is entitled to be registered in the Electoral roll.**

Yes, except the period after the last date of making nominations till the date of completion of the election in the constitution (Section 23 (4) of the R.P.Act 1950)

Q.16 Where can I check up if my name is there or not in the voter's list?

As an elector you should immediately check whether your name has been included in the electoral roll of the constituency where you reside or not. It can be checked online on <http://www.ceogujarat.nic.in> or by accessing the State's website through <http://www.eci.nic.in>, or offline at the office of the Mamlatdar or the office of the Prant Officer or office of the Collector of your District.

Q. 17 Do you have an Electors' Photo Identity Card (EPIC)?

The Election Commission of India has made voter identification mandatory at the time of poll. The electors have to identify themselves with Electors Photo Identity Card (EPIC) issued by the Commission. Only in the rare case that you have not been issued a EPIC, other documentary proof as prescribed by the Commission for that particular poll can be used.

Q. 18 Will possession of an EPIC alone entitle you to vote?

You should note that mere possession of an EPIC issued to you does not guarantee you your vote, because it is mandatory that your name should appear in the electoral roll. Once you have found out that your name is there in the electoral roll and you also possess an identification document prescribed by the Election Commission (EPIC or others), you are entitled to vote

Q. 19 What are the basic "don't's" for the voters as polling day approaches?

As a voter you should know the aspects that are considered as

corrupt practices or electoral offences:

- (i) Offering or accepting money or any other gratification either to vote for or not to vote for a particular candidate.
- (ii) Being available for inducement by way of liquor, feast, gifts, etc. to vote for or not to vote for a particular candidate.
- (iii) Being available for inducement to vote or not to vote for a particular candidate on the grounds of religion, caste, community, sectarian beliefs or place of birth.
- (iv) Threatening an elector of ex-communication if he votes for or against a particular candidate.
- (v) Taking the offer of free conveyance to any elector to go to or from any polling station.
- (vi) Carrying any sheet of paper containing the name and symbol of the candidate into the polling station on the day of election.

Q. 20 Can you decline to cast your vote at the last stage?

The law enables a voter to decline casting his vote at the last stage. If you decide not to cast your vote after having signed on the Register of Voters and after having received the voters' slip at the polling station, you must inform the Presiding Officer immediately. He will then take back the voters' slip from you and proceed to record in the remarks column of the Register of Voters that you have declined to exercise your franchise and you will be required to put your signature under such entry. After this is done, you can leave the polling station without proceeding to the Voting Compartment. Provision for this is made (Rule 49-O of the Conduct of Election Rules)

Q. 21 What happens if someone else has cast the vote in your name?

If the Polling Officer tells you on arrival inside the polling station that your vote has already been cast, immediately bring this to the attention of the Presiding Officer. The law allows you to cast a Tendered Vote. A Tendered Ballot Paper, as per Rule 49P of the Conduct of Elections Rules, will be given to you and you will be required to sign your name on the list of tendered votes. A tendered ballot paper is the same as the ballot paper displayed on the balloting unit, except that it shall be endorsed on the back, with the words, "Tendered Ballot Paper" either stamped by the Returning or written by the Presiding Officer at the time of issuing it.

Q.22 What if a person makes a false declaration of an entry in the Electoral Roll?

Ans. Making false declarations of this kind are punishable with imprisonment for up to one year or fine or with both as per section 31 of the Representation of People Act, 1951.

Q. 23 What do we mean by the Model Code of Conduct?

Ans. The Model Code of Conduct (MCC) is for the guidance of all participating political parties and candidates in any election conducted by the Election Commission of India. It is a set of norms which has been evolved with the consensus of political parties who have consented to abide by the principles embodied in it and the powers vested in Article 324 of the Constitution of India. The Election Commission of India ensures the observance of the Model Code of Conduct.

Q.24 Is there any penal provision in law with regard to offences relating to Elections?

Ans. Chapter-IXA of the Indian Penal Code, sections 171A to 171I lay down various offences relating to elections and their penalties. The offences include bribery, personalization of a voter in elections, undue influence, false statement and illegal payments in connection with an election and also failure to keep election accounts. Also the Representation of People Act, 1951 gives penal provisions under sections 125 to 135.

Q.25 What is the instrument used for casting votes?

Ans. EVM (Electronic Voting Machine)

Q.26 What was the total number of EVMs used in the Lok Sabha Elections in 2009 in India?

Ans. Almost 10.25 lacs.

Q.27 What is the operational speed of EVM i.e. maximum how many votes can be registered per minute?

Ans. 5 votes.

Q.28. What is the maximum number of candidates against whom votes can be cast in one EVM?

Ans. EVM consists of a control unit and one ballot unit. Ballot unit is used to cast the vote and the control unit is used for recording votes. The maximum number of candidates for whom one ballot unit can be used is 16. However, maximum 4 EVMs can be interconnected to hold maximum 64 candidates.

Q.29 Due to introduction of EVM, what is the amount of paper which was saved in the general elections (Lok Sabha in 2009)

Ans. Approximately 8000 metric tones.

Q.30 What is National Voters' Day (NVD)? (Rashtriya Matdar Divas)

Ans. The day on which Election Commission of India was established i.e. on 25th January, is to be henceforth celebrated every year as National Voters' Day (NVD). It was celebrated for the first time in January 2011.

Q.31 What is the objective of NVD?

Ans. The objectives of NVD are –

- ensuring maximum enrolment of youth,
- spreading awareness amongst voters of their rights and duties, ,
- to create awareness amongst voters about the process of enrollment
- requesting the participation of voters in helping the Election Officers to maintain clean error free roles
- and empowering the youth and instilling a sense of pride amongst them to inspire them to exercise their franchise.

Q. 32 What is the Disclosure by Candidates?

The Election Commission of India has made it mandatory consequent upon a Judgment of Hon'ble Supreme Court that all candidates must file an affidavit along with their nomination form with details such as:-

- i. his/her criminal antecedents,
- ii. his/her assets and liabilities and those of his/her spouse and dependents, and
- iii. his/her educational background, etc.

This has been done with a view that every citizen has a right to know about the candidates contesting an election and make an informed choice.

The Election Commission has directed all Returning Officers to display the copies of nomination papers and accompanying affidavits received during any day on his notice board and also on the CEOs websites immediately on receipt and make copies of these for distribution to the press and any members of public who want this information. Any citizen of the country can obtain copies of the nomination form and the affidavit filed by any candidate from the Returning Officer and it shall not be refused. As a voter you have every right to seek this information and get it.

The details of the dues owed by the candidates to the Government are published by giving an advertisement in the leading newspapers by the Returning Officer for the benefit of electors.

Above measures help the electors make an informed choice about the candidate they are going to vote for.

Q. 33 What is the position of the Courts vis-à-vis the ECI decisions?

Decision of the ECI can be challenged only in the High Courts or Supreme Courts. No Courts can interfere in the Election process after it is set in motion. Redressal after the process is through election petitions.

For viewing more details/judgements/orders please visit <http://eci.nic.in>

Q. 34 Does every citizen of India have voting rights?

Yes, with the exception of the following class of people to whom voting rights are denied.

- a) Criminal convicts of certain cases
- b) Persons convicted of electoral offence
- c) Persons of unsound mind