

ELECTION TO THE OFFICE OF
PRESIDENT OF INDIA
2002



ELECTION COMMISSION OF INDIA
NEW DELHI

ã Election Commission of India, 2002

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BACKGROUND MATERIAL REGARDING PRESIDENTIAL ELECTION, 2002

The term of office of the President of India is up to 24.07.2002. Under the provisions of sub-section (3) of section 4 of the Presidential and Vice-Presidential Elections Act, 1952, the notification under sub-section (1) of section 4 of the said Act can be issued by the Election Commission on or after the sixtieth day before the expiry of the term of office of outgoing President, that is, notification containing the programme of election to the office of the President can be issued by the Election Commission on any day after 25th May, 2002.

CONSTITUTIONAL PROVISIONS

2. The President is elected by the Members of an Electoral College consisting of (a) the Elected Members of both Houses of Parliament and (b) the Elected Members of the Legislative Assemblies of the States [including National Capital Territory of Delhi and the Union Territory of Pondicherry vide the Constitution (Seventieth Amendment) Act, 1992] (Article 54). The nominated members of either House of Parliament or the Legislative Assemblies of States are not eligible to be included in the Electoral College.

3. Vide Section 2 of the Constitution (Seventieth Amendment) Act, 1992, an amendment was made to the EXPLANATION below article 54 of the Constitution. The amended Explanation is as under:-

“Explanation – In this Article and in Article 55 “State” includes the National Capital Territory of Delhi and the Union Territory of Pondicherry”.

4. That amendment came into force w.e.f. 1st June, 1995, by the notification G.S.R. No.375 (E) dated 2nd May, 1995 issued by Ministry of Law, Justice & Company Affairs, New Delhi.

5. The Electoral College for Presidential Election shall now consist of (a) the Elected Members of Both Houses of Parliament and (b) the Elected Members of the Legislative Assemblies of the States including NCT of Delhi and Union Territory of Pondicherry.

6. The Constitution also stipulates that there shall be uniformity, as far as practicable, in the scale of representation of the different States at the election (Article 55). For securing such uniformity among the States inter-se as well as parity between the States as a whole and the Union, a formula is given in the Constitution for determination of the value of vote which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast.

ILLUSTRATION

Total population of Andhra Pradesh (1971 census)	:	43,502,708
Total No. of elective seats in the State Assembly	:	294
No. of votes for each member	:	<u>43,502,708</u>
		1000 x 294
	=	147.96 or 148

7. Total Value of votes of all members of each State Assembly is worked out by multiplying the number of elective seats in the Assembly by the number of votes for each member, e.g., $294 \times 148 = 43,152$ for Andhra Pradesh. The total value of votes of all the States added together is divided by the total number of elected members of Parliament (Lok Sabha 543 + Rajya Sabha 233) to get the value of votes per each Member of Parliament.

8. A statement showing the value of votes of each Member of the Legislative Assemblies of 28 States, NCT Delhi and the Union Territory of Pondicherry, total value of votes of each of the said States, the value of votes of each Member of Parliament, the total value of votes of the M.Ps and the grand total of value of all the members in the List of Electoral College for the Presidential Election, 2002 may be seen at **APPENDIX-I**.

9. The Constitution (Eighty-fourth Amendment) Act, 2001, provides that until the relevant figures for the first census taken after the year 2026 have been published, reference to the last preceding census of which the relevant figures have been published shall be construed as a reference to the 1971 census.

10. The election shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

SYSTEM OF PROPORTIONAL REPRESENTATION BY MEANS OF SINGLE TRANSFERABLE VOTE – DETAILED PROCEDURE

The manner of voting at Presidential Election is contained in Rule 17 of the Presidential and Vice- Presidential Elections Rules, 1974.

10.1 The ballot paper does not contain any election symbol. There will be two columns in the ballot paper. Column 1 of the ballot paper contains the heading “Name of Candidate” and column 2 contains the heading “Mark Order of Preference”.

10.2 Each Elector shall have as many preferences as there are candidates but no ballot paper shall be considered invalid solely on the ground that all such preferences are not marked.

10.3 An elector in giving his vote shall place the figure 1 in the space opposite the name of the candidate whom he chooses for his first preference and may, in addition, mark as many subsequent preferences as he wishes by placing on his ballot paper the figures 2, 3, 4 and so on in the spaces opposite the names of other candidates, in order of preference. The figures may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language BUT SHALL NOT BE INDICATED IN WORDS.

VALUE OF VOTE

10.4 The value of vote of each elector is pre-determined as may be seen from the Statement at **APPENDIX-I**. For example, the value of vote of each Member of Parliament is 708. The value of vote of each Member of the Legislative Assembly of Uttar Pradesh is 208 and that of Sikkim is 7. Thus the value of votes for the Members of each Legislative Assembly varies.

10.5 While counting the votes, the Returning Officer counts the votes State-wise in so far as the votes cast by the members of each Legislative Assembly and in one lot that of Members of Parliament.

10.6 The Returning Officer scrutinizes the ballot papers first and if found valid, puts the valid ballot paper in the Tray meant for the candidate to whom the first preference was marked. After distributing the ballot papers of one State, the R.O. totals the valid ballot papers credited to each candidate and these totals are multiplied by the value of each vote and that total is credited to the candidate as the total value of votes secured. After so distributing the valid ballot papers polled by members of each State Legislative Assembly and the Members of the Parliament, the R.O. totals up the value of valid votes secured by each candidate.

QUOTA FOR ELECTION

10.7 After calculating the total value of votes polled by each candidate, the R.O. totals up the value of all valid votes polled. The quota for declaring a candidate as elected is determined by dividing the total value of valid votes by 2 and adding one to the quotient, ignoring the remainder, if any. For example assuming the total value of valid votes polled by all candidates is 1,00,001. The quota required for getting elected is :-

$$\frac{1,00,001+1}{2} = 50,000.50 + 1 \text{ (Ignore.50)}$$

2

$$\text{Quota} = 50,000+1 = 50,001.$$

10.8 After ascertaining the quota, the R.O. has to see whether any candidate secured the quota for being declared as elected on the basis of the total value of first preference votes polled by him / her.

10.9 If no candidate gets the quota on the basis of first preference votes, then the R.O. proceeds further to second round of counting during which the candidate having lowest value of votes of first preference is eliminated and his votes are distributed among the remaining candidates according to the second preference marked on these ballot papers. The other continuing candidates receive the votes of eliminated candidate at the same value at which he / she received them in the first round of counting.

10.10 The R.O. will go on eliminating the candidates with lowest number of votes in subsequent rounds of counting till either one of the continuing candidates gets the required quota or till only one candidate remains in the field as the continuing candidate and shall declare him / her as elected.

ELIGIBILITY FOR ELECTION

11. No person shall be eligible for election as President unless he –
 - (1) is a citizen of India;
 - (2) has completed the age of 35 years; and
 - (3) is qualified for election as a member of the House of the People (Article 58).

12. A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any Local or other Authority subject to the control of any of the State Governments.
13. However, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

14. Detailed provisions regarding the election are contained in the Presidential and Vice-Presidential Elections Act, 1952 (No.31 of 1952) and the rules made thereunder, viz., “The Presidential and Vice-Presidential Elections Rules, 1974”.

PREVIOUS ELECTIONS

15. The Presidential Election to be held in 2002, will be the **twelfth** of such elections to the office of the President. The earlier elections to this office were held in 1952, 1957, 1962, 1967, 1969, 1974, 1977, 1982, 1987, 1992 and 1997. Details of each of the earlier elections are given in brief in **APPENDIX-III**.

16. The experience of the five elections to the office of President held earlier in 1952, 1957, 1962, 1967 and 1969 revealed that some persons offered themselves as candidates for the office of the President without even a remote chance of getting elected. Another matter of concern was the manner in which some persons approached Courts of Law challenging the election to the office of the President.

17. In order to remedy these shortcomings, the Commission made a number of recommendations. The Parliament enacted “The Presidential and Vice-Presidential (Amendment) Act, 1974 (5 of 1974)”. An Ordinance was also promulgated on

5th June, 1997 to further amend the Presidential and Vice-Presidential Elections Act, 1952 which was later converted into an Act. These Acts introduced various important provisions relating to the mode and manner of elections to the offices of the President and Vice-President. The Central Government issued a new set of “The Presidential and Vice-Presidential Elections Rules, 1974” replacing the Rules of 1952 in consultation with the Election Commission. The Central Government further amended these rules vide Ministry of Law & Justice Notification No. F.13(1)/97-Leg.II dated 06-06-1997. Some of the important amendments in the law are:-

17.1 A prospective Presidential candidate should get his nomination paper subscribed to by at least fifty electors as proposers and at least fifty electors as seconders. In the case of prospective Vice-Presidential candidate, the nomination paper should be subscribed to by at least twenty electors as proposers and at least twenty electors as seconders. No elector shall subscribe whether as proposer or as seconder, more than one nomination paper at the same election and if he does, his signature shall be inoperative on any paper other than the one first delivered.

17.2 Not more than four nominations can be filed by or on behalf of a candidate or accepted by the Returning Officer.

17.3 A prospective candidate should deposit a sum of Rupees Fifteen Thousand as security. This amount is liable to be forfeited if at the election where the poll has been taken the candidate is not elected and the number of valid votes polled by such candidate does not exceed one-sixth of the votes necessary to secure the return of a candidate at such election.

17.4 An election petition calling in question an election to the office of the President may be presented – within 30 days from the date of publication of the declaration of the result of election – to the Supreme Court by any candidate at such election or any twenty or more electors joined together as petitioners; and in the case of the election to the office of Vice-President, by any candidate at such election or by ten or more electors joined together as petitioners.

ELECTORAL COLLEGE

18. Under rule 40 of the Presidential and Vice-Presidential Elections Rules, 1974, the Election Commission is required to maintain a list of members of the Electoral College referred to in Article 54 with their addresses corrected up to-date.

19. The list will contain the names of elected members of the Rajya Sabha, the Lok Sabha and the elected members of State Legislative Assemblies in that order. The names will be numbered in a continuous series. The names will be arranged in alphabetical order of the State / Union Territory. Members in respect of whom the appropriate Court i.e. High Court or Supreme Court has given a limited stay of operation of the order of setting aside of his election by the Court, are not entitled to vote at the election, though their names would have been included in the Electoral College. The list of Electoral College for the Presidential Election has been made available for sale to public in May 2002.

NOMINATION AND SECURITY DEPOSIT

20. For a valid nomination, the following qualifications and requirements are to be satisfied:-

20.1 (a) The candidate should be a citizen of India,
(b) He should have completed the age of 35 years, and
(c) He should be qualified for election as a member of Lok Sabha. The candidate shall not hold any office of profit under the Government of India or the Govt. of any State or under any local or other authority subject to the control of any of the said Governments.

20.2 A nomination paper of a candidate for the election in the prescribed form (Form 2 appended to 1974 Rules) has to be subscribed by at least fifty electors as proposers and at least fifty electors as seconders. The nomination paper must be presented in person to the Returning Officer, either by the candidate himself or by any of his proposers or seconders.

20.3 The security deposit for the election is Rs.15,000/- which will be required to be made along with the nomination paper. This amount can either be deposited in cash with the Returning Officers at the time of presentation of the nomination paper or receipt showing

that such amount has been deposited by the candidate or on his behalf in the Reserve Bank or in a Government Treasury can be furnished along with the nomination paper.

20.4 Each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the parliamentary constituency where he is registered as an elector.

20.5 No elector shall subscribe, whether as proposer or as seconder, more than one nomination paper at the same election and if he does his signature shall be inoperative on any paper other than the one first delivered to the Returning Officer.

20.6 The Returning Officer shall not accept any nomination paper which is presented on any day, appointed for that purpose, before 11.00 a.m. and after 3.00 p.m.

TOTAL ELECTORS

21. The total number of members in the Electoral College for the Presidential Election in 2002 is 4896 as detailed below

	HOUSE	SEATS
(a)	Rajya Sabha	233
(b)	Lok Sabha	543
(c)	State Assemblies	<u>4120</u>
	Total :	<u>4896</u>

RETURNING OFFICER / ASSISTANT RETURNING OFFICERS

22. By convention, the Secretary General, Lok Sabha and the Secretary General, Rajya Sabha are appointed as the Returning Officers by rotation. For the 1997 Presidential Election, the Secretary General, Lok Sabha was appointed as Returning Officer. Therefore, for the 2002 Presidential Election, the Secretary General, Rajya Sabha has been appointed as the Returning Officer. Two other senior officers of Rajya Sabha Secretariat and the Secretaries and one more senior officer of Legislative Assemblies of all States including NCT of Delhi and Union Territory of Pondicherry have also been appointed as the Assistant Returning Officers.

23. The Commission is taking steps to fill vacancies by holding bye-elections to the Lok Sabha and State Legislative Assemblies so that as far as practicable the Electoral College for the Presidential Election in 2002 is complete.

24. During 1997, the following was the programme for the Presidential Election:-

(a)	Issue of Notification	09.6.1997 (Monday)
(b)	Last date for making nominations	23.6.1997 (Monday)
(c)	Scrutiny of nominations	24.6.1997 (Tuesday)
(d)	Last date for withdrawal of candidatures	26.6.1997 (Thursday)
(e)	Date of poll	14.7.1997 (Monday)
(f)	Counting of Votes	17.7.1997 (Thursday)

25. The programme for the 2002 Presidential Election will be notified in due course. A statement at **Appendix-II** shows the programmes for the previous 11 Presidential Elections.

PLACES OF POLL

26. A room in the Parliament House in New Delhi and a room in all State Legislative Assembly Secretariats are generally fixed as places of poll. The Members of Parliament normally vote in New Delhi and the members of the State Legislative Assemblies, including the members of the Legislative Assemblies of NCT Delhi and Union Territory of Pondicherry, normally vote at the place fixed in each State Capital. However, facilities are provided by the Commission for any Member of Parliament to vote in the capital of his State and similarly if any Member of any State Legislative Assembly unavoidably stays in Delhi on the date of poll, he is given the facility to vote at the polling booth set up in the Parliament House. However, due intimation of such intention to vote at a place other than the place where a member is designated to vote must be received in the Commission well in advance to make necessary arrangements.

DISPUTE OVER ELECTION

27. (i) An election petition calling in question an election to the office of President may be presented by any candidate at such election or any twenty or more electors joined together as petitioners.

(ii) The authority having jurisdiction to try an election petition is the Supreme Court of India.

(iii) An election petition shall be presented within 30 days from the date of publication of the declaration containing the name of the returned candidate.

RETURN OR FORFEITURE OF CANDIDATE'S DEPOSIT

28. The deposit shall be forfeited if the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the number of votes necessary to secure return of a candidate at such election. In other cases, the deposit will be returned to the candidate.