

**Bill No. LVII of 2013**

THE REPRESENTATION OF THE PEOPLE (AMENDMENT AND  
VALIDATION) BILL, 2013

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BILL

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

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

1. (1) This Act may be called the Representation of the People (Amendment and Validation) Act, 2013. Short title and commencement.

(2) It shall be deemed to have come into force on the 10th day of July, 2013.

43 of 1951. 5 2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in section 7, in clause (b), after the words "or Legislative Council of a State", the words "under the provisions of this Chapter, and on no other ground" shall be inserted. Amendment of section 7.

3. In section 62 of the principal Act, after the proviso to sub-section (5), the following proviso shall be inserted, namely:— Amendment of section 62.

10 "Provided further that by reason of the prohibition to vote under this sub-section, a person whose name has been entered in the electoral roll shall not cease to be an elector."

Validation.

4. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of the Representation of the People Act, 1951, as amended by this Act, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act had been in force at all material times. 43 of 1951.

## STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951 provides for the conduct of elections of the Houses of Parliament and the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

2. A Division Bench of the Supreme Court by its order dated the 10th July, 2013, in the case of *Chief Election Commissioner vs. Jan Chaukidar and others* (Civil Appeal Nos. 3040-3041 of 2004), has upheld an order of the High Court of Patna declaring that a person who has no right to vote by virtue of sub-section (5) of section 62 of the said Act, is not an elector and is, therefore, not qualified to contest the election to either House of Parliament or the Legislative Assembly of a State.

3. The Government has examined the said order of the Supreme Court and has filed a petition for review of the said order in consultation with the Learned Attorney-General for India. Further, the Government is of the view that without waiting for the outcome of the said review petition, there is a need for suitably addressing the situation arising out of the said order of the Supreme Court. Therefore, it is proposed to amend the said Act.

4. The amendments proposed in the Representation of the People (Amendment and Validation) Bill, 2013, *inter alia*, are as under:—

(a) to amend the definition of the term "disqualified" in clause (b) of section 7 so as to expressly provide that a member of Parliament or the Legislature of a State shall be disqualified for being chosen as or for being such member only if he is so disqualified under the provisions of Chapter III of Part II of the said Act and on no other ground;

(b) to insert a proviso to sub-section (5) of section 62 so as to expressly provide that by reason of the prohibition to vote under the said sub-section, a person whose name has been entered in the electoral roll shall not cease to be an elector.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 23rd August, 2013.*

KAPIL SIBAL

ANNEXURE

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951

(43 OF 1951)

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CHAPTER III

*Disqualifications for membership of Parliament and State Legislatures*

Definitions.

7. In this Chapter,—

\* \* \* \* \*

(b) “disqualified” means disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State.

\* \* \* \* \*

Right to vote.

62. (1)\*

\* \* \* \* \*

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

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RAJYA SABHA

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

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*(Shri Kapil Sibal, Minister of Law and Justice)*