
FAQs – What to do if your candidate has filed an incorrect statement of his election expenses

1. What are election expenses?

Every candidate contesting the state assembly elections is supposed to give his/her statement of election expenditure. These expenses relate to the election which the candidate is contesting. The candidate has to file his statement of election expenses within thirty days from the date of election, to the District Election Officer. The statement must be a true copy of the expenses made by him or by his agent from the date of nomination till the declaration of the results.

2. What is the maximum limit of election expenses?

The maximum amount that a candidate can spend for his/her elections varies for state assembly elections and the general elections. For the recently concluded state assembly elections in 5 states, the maximum expense limit is as follows:

Punjab, Uttar Pradesh – 16 lac Uttarakhand – 11 lac Manipur, Goa – 8 lac

3. What if a candidate has not filed his/her statement of election expenses?

If a candidate has not filed his/her statement of expenses within the required time period, the Election Commission has the authority to declare him/her to be disqualified for a period of three years. This provision is mentioned in Section 10A of the Representation of the People Act.

4. What if a candidate has shown a lesser amount of election expenses than the actual expense incurred?

If a person can show or prove that a candidate has filed a false statement i.e. expenses have been undervalued or lesser amounts have been shown even though the actual expenditure is much higher, an election petition can be filed. Under declaration of election expenses is a corrupt practice and one of the grounds for filing an Election Petition.

5. What if a candidate has spent more than the maximum limit of election expenses?

A candidate is not allowed to spend more than the maximum limit of election expenses. If a candidate has exceeded the maximum limit of election expenses, then this is regarded as a corrupt practice under section 123(6) of the Representation of People Act. A person can file an election petition against this and also, he can be disqualified for a period of three years under section 10A of the Representation of People Act.

6. Who is eligible to file an election petition?

An election petition can be filed either by a candidate or a voter in the concerned constituency of the State. Voter is a person who was entitled to vote at the election to which the election petition relates. Whether he has voted at such election or not is immaterial. (Sec 81(1) explanation of Representation of People Act, 1951)

7. When and where an election petition has to be filed?

An Election Petition has to be filed within 45 days from the declaration of the results of the State Assembly elections. Election petition has to be filed in the High Court of the State to which the State Assembly elections pertain.

8. What should be the content of the Election Petition?

The election petition must be a precise statement of facts on which the petitioner relies. The petitioner must present full details of the corrupt practice that he is alleging i.e. under declaration of expenses along with physical proof. He must also mention the names of the parties who he is alleging and the date and place when the corrupt practice was done. It should be signed by the petitioner. The petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice (Form 25, <http://lawmin.nic.in/legislative/election/volume%202/conduct%20of%20election%20rules,%201961.pdf>).

9. What is the cost for filing an Election Petition?

The petitioner shall have to deposit a sum of Rs. 2000/= in accordance with rules of the concerned High Court. However, the fees may vary according to the individual rules of a particular High Court.

10. Examples of election petitions that have been filed?

- An election petition had been filed against Ashok Chavan for understating his election expenses on newspaper advertisements during the 2009 elections.
- Election Commission of India had disqualified Umlesh Yadav (woman MLA from Uttar Pradesh) for filing an incorrect amount of expenses incurred by her during the elections.
- An election petition had been filed against Indira Gandhi for corrupt electoral practices and she was disqualified from contesting elections for a period of six years.
- An election petition had been filed against Chidambaram on the grounds of corrupt practices and manipulation of votes.