

Annexure C

Excerpts from Chapter I of Part III of the 170th Report of the Law Commission of India

Necessity for providing law relating to internal democracy within political parties

PART II-A

Organisation of Political Parties and matters incidental thereto

“Section 11-A: (1) Political parties can be freely formed by the citizens of this country. The political parties shall form a constitutionally integral part of free and democratic system of Government.

(2) Each political party shall frame its constitution defining its aims and objects and providing for matters specified in section 11A. The aims and objects of a political party shall not be inconsistent with any of the provisions of the Constitution of India.

(3) A political party shall strive towards, and utilize its funds exclusively for, the fulfillment of its aims and objects and the goals and ideals set out in the Constitution of India.

(4) (a) A political party shall apply for registration with the Election Commission of India.

(b) Every such application shall be made, -

(i) if the association or body is in existence at the commencement of the Representation of the People and other Allied Laws (Amendment) Act, 1999 (___of 1999), within sixty days next following such commencement;

(ii) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(c) Every application under sub-section (4) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(d) Every such application shall contain the following particulars, namely:-

(i) the name of the association or body;

(ii) the State in which its head office is situated;

- (iii) the address to which letters and other communications meant for it should be sent;
 - (iv) the names of its president, secretary, treasurer and other office-bearers;
 - (v) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;
 - (vi) whether it has any local units; if so, at what levels;
 - (vii) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.
 - (viii) a declaration that the applicant has complied with and shall continue to comply with the requirements of this chapter.
- (e) The application under sub-section (4) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.
 - (f) The Commission may call for such other particulars as it may deem fit from the association or body.
 - (g) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of clause (e).

- (h) The decision of the Commission shall be final.
- (i) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office bearers, address or in any other

material matters shall be communicated to the Commission without delay.

- (5) Only a political party registered with Election Commission of India, and whose registration is not cancelled under this Act, shall be entitled to contest elections whether to Lok Sabha or that of Legislative Assembly.

Section 11-B: (1) A political party may sue and may be sued in its own name. A political party shall be competent to hold and dispose of properties.

(2) The name of a political party must be clearly distinguishable from that of any existing political party and shall be subject to approval by the Election Commission. In election campaigns and in elections, only the registered name or its acronym, as may have been approved by the Election Commission, alone shall be used.

(3) Political parties can be formed both at the national level as well as at the State level.

Section 11-C: The constitution of a political party shall provide for the following matters:-

(a) name of the political party and acronym (if used) and the aims and objectives of the party;

(b) procedure for admission, expulsion and resignation by the members;

(c) rights, duties and obligations of the members;

(d) grounds on which and the procedure according to which disciplinary action can be taken against the members;

(e) the general organisation of the party including the formation of State, regional, district, block and village level units;

(f) composition and powers of the executive committee (by whatever name it is called) and other organs of the party;

(g) the manner in which the general body meetings can be requisitioned and conducted and the procedure for requisitioning and holding conventions to decide questions of continuance, merger and other such fundamental organizational matters;

(h) the form and content of the financial structure of the party consistent with the provisions of this part.

Section 11-D: The executive committee of a political party shall be elected. Its term shall not exceed three years. Well before the expiry of the term, steps shall be taken for electing a new executive committee. It shall be open to the executive committee to constitute a sub-committee (by whatever name called) to carry out the business of the executive committee and to carry on regular and urgent executive committee business. The members of the sub-committee shall be elected by the members of the executive committee.

Section 11-E: A political party and its organs shall adopt their resolutions on the basis of a simple majority vote. The voting shall be by secret ballot.

Section 11-F: The candidates for contesting elections to the Parliament or the Legislative Assembly of the States shall be selected by the executive committee of the political party on the basis of the recommendations and resolutions passed by the concerned local party units.

Section 11-G: (1) It shall be the duty of the executive committee to take appropriate steps to ensure compliance with the provisions of this chapter including holding of elections at all levels. The executive committee of a political party shall hold elections of national and State levels in the presence of the observers to be nominated by the Election Commission of India. Where considered necessary, the Election Commission may also send its observers at elections to be held at other national and state levels.

(2) The executive committee of a political party shall maintain regular accounts of the amounts received by the party, its income and expenditure, have them audited and submit the same to the Election Commission as required by section 78-A of this Act.

(3) A political party shall be entitled to accept donations except from the following sources:-

(a) donations from political foundations or foreign governments or organisations or associations registered outside the territory of India or non-governmental organizations which are in receipt of foreign funds or from any other association, organisation, group which is in receipt of foreign funds or from a foreign national.

(b) donations from corporate bodies and companies except in accordance with the provisions of the Companies Act, 1956.

Section 11-H: The Election Commission shall be competent to inquire, either suo motu or on information received into allegation of non-compliance of any of the

provisions of this chapter. If on due inquiry, the Election Commission is satisfied that there has been non-compliance of any of the provisions of this chapter by any political party, the Commission shall call upon the party to rectify the non-compliance within the period prescribed by the Election Commission. In case, the non-compliance continues even after the period so prescribed, it shall be open to the Election Commission to impose such punishment on the political party as it may deem appropriate in circumstances of the case including levy of the penalty of Rs.10,000/- per day for each day of non-compliance and withdrawal of registration of the party.

Section 11-I: Where a public authority provides facilities or offers public services for use to a political party, it must accord equal treatment to all. The scale of such facilities and services may be graduated to conform to the importance of the parties subject to the minimum extent needed for the achievement of their aims. The importance of a party shall be decided on the basis of the results of immediately previous election to Parliament or State Legislative Assembly, as the case may be. The granting of public services shall be only in connection with and for the duration of the election campaign period. For the purposes of this section, the election campaign period shall be deemed to commence 14 days prior to the commencement of the poll in a State.

(Rules made under the Act can provide the requisite details on the pattern of the provisions of the German Law on Political Parties, 1967).”

3.1.4. In view of the above provisions, Part IV-A of the Act, containing section 29-A shall be deleted. The substance of section 29-A has been incorporated in section 11-A.