

SIMULTANEOUS ELECTION: IS IT FEASIBLE IN INDIA?

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ABSTRACT

This paper analyses the feasibility of simultaneous election (one nation, one election) in India. The principle of simultaneous advocates that the voters in all the three levels of elections should simultaneously exercise their franchise on the same day. How effective and unique this concept will be in India's diversified political system is a matter of research. Along with this, it will also be interesting to see how far the arguments given in favour and against this concept match with the Constitution of India and its provisions. Elections are the foundation of democracy, so the timely conduction of it. This paper argues that holding simultaneous election are not practically and constitutionally possible. Holding simultaneous elections for a fixed term of five years limits the right of the people to express confidence or dissatisfaction with the government. It will also affect federal structure of the country because certain state governments need to be dissolved by centre at its own whims and wants which are elected by people for five years. It will also confuse voters on national and regional issues which is not good from the democratic point of view.

Keywords: Simultaneous Election, Election Commission of India, Federalism, Model Code of Conduct.

Introduction

India achieved independence after a long mass struggle. In the post-independence Indian constitution, India adopted a political governance system based on the Westminster pattern. It was based on the coordination and mutual cooperation of the legislature and executive organ of government. India is a federation of states, therefore a federal government at the central level and state government at the level of the units of the union. The Indian federal system is unique in which federal government have more power in compare to state government but elections to the legislatures are held at the federal and state levels.

Historical Background of Elections in India

India is the largest democratic country in the world and timely elections are the core and integral part of this democratic system. Through the article 324 and 243, responsibility of fair elections has been entrusted to the Election Commission of India. While on the one hand the Election Commission of India is responsible for the elections to the Parliament and Legislative Assemblies in India, on the other hand the elections to the local bodies are held under the supervision of the State Election Commission. Since 1952, the elections to the Lok Sabha and State Legislative Assemblies were started simultaneously in India, but from time to time, the Central Government, by misusing the office of the Governor of the States, either got assemblies dismissed before the time or imposed President's rule in the former States. In 1969, Kerala's Communist Party government was thrown out of power by misusing Article 356 and the assembly was dissolved. In the year 1970, the Lok Sabha itself could not complete its fixed term and was dissolved prematurely and in 1971 fresh elections had to be conducted.

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Only the first, second and third Lok Sabha was able to complete its term. In 1969, after the three successful terms of the legislature, due to premature dissolution of some assemblies, it was not possible to hold simultaneous elections at the central and state level. Parallel to this, in the late 1970s, in the era of coalition politics, the government became unstable due to the formation of hung Lok Sabha and the frequency of general elections increased. The tenure of Fifth Lok Sabha was extended till 1977 by applying Article 352. After this, the Eighth, Tenth, Fourteenth and Fifteen Lok Sabha's complete their respective terms and the Sixth, Seventh, Ninth, Eleventh, Twelfth and Thirteenth Lok Sabha's were dissolved before time. The practice of conducting elections to the Lok Sabha and the State Assemblies of India simultaneously is over.

The Idea of Simultaneous Election

In India, the people's representatives are elected by the public through the adult franchise system at three levels. The principle of one day one election advocates that the voters in all the three levels of elections should simultaneously exercise their franchise on the same day. But according to the report of the Department of Legal Affairs of India and the Law Commission of India dated 16 April 2018, the meaning of 'one day one election' will be limited only to the elections to the Lok Sabha and the State Legislative Assemblies. In South Africa, there are elections to the national assembly, provincial legislature, and local bodies held every five years. These elections are held through proportional representation. That is, political parties get seats in the national and provincial assemblies according to the votes polled in the elections. Political parties first announce their candidates and then an independent Election Commission elects the candidates on the basis of votes polled by the party. There elections to the local bodies are also held every five years, but they are not held simultaneously with the national and provincial assemblies. In South Africa the National Assembly and the provincial legislature are merged together and votes are cast on same day but on separate ballot papers. In Sweden, general elections and local municipal elections are held simultaneously. The citizens of Belgium have to vote in five different types of elections. First, the integration of the election of deputies of the European Union. Second, in federal elections, third for federal legislatures, fourth for provincial elections and fifth for local bodies. Where all the elections coincidentally happen at the same time.

Thus, in many countries in the world, by law or by chance, elections at various levels are held simultaneously. Along with this, the principle of one day election is also prevalent in Brazil, Bolivia, Cambodia, Costa Rica, Cambodia, Guatemala, etc. But India has a different presidential form of government and along with this, the geographical boundaries of India are much more than these countries and the population of India is also comparatively more.

Why the Need to Conduct Elections Simultaneous?

The first and foremost reason for holding simultaneous elections is the rising expenditure in elections. The frequency of elections is increasing and a lot of money is being spent in the election campaign. The political parties are trying to win the elections through money power and increasing electoral corruption. Simultaneous election will not only reduce the election expenses of the political parties and the government. At present the Election Commission of India has fixed a cost of Rs.4500 crores on elections to the Lok Sabha and State Assemblies. In this way, the problem of lack of resources can also be solved by holding simultaneous elections. Election commission of India also fix the limit for candidate's expenditure which is not followed by them because of lack of scrutiny. By holding election simultaneously, it can be also managed easily. Keeping in mind the need for large number of voters and correspondingly large number of polling stations, through simultaneous elections, it can be managed easily. It is possible that there will be an increase in the polling and also public holidays due to elections will also be reduced.

By conducting simultaneous elections, the hindrance in the process of governance can also be reduced. Political parties often follow populist path without paying attention to public interest. Holding simultaneous elections will nullify the opportunity to entice the voters for a short period of time. In this way, the government will be able to focus on long term constructive measures instead of playing safe from political point of view. The government will be able to spend more time in fulfilling the promises made in its manifesto, which will help in better governance and more administrative efficiency. A committee of The Law Commission of India, headed by justice P. Jeevan Reddy, in its report on the subject of reforms in election laws, suggested that elections to the Lok Sabha and state assemblies should be held simultaneously to bring stability in the governance system. The Standing Committee on Personnel, Public Grievances, Miscellaneous and Legal Affairs submitted a report in the year 2015 on the feasibility of holding simultaneous elections to the Lok Sabha and the Legislative Assemblies. In this report, the idea of holding simultaneous elections in the country will be achieved through national consensus.

During elections, the code of conduct is enforced in the state in which elections are held. By imposing the model code of conduct, all the work related to the development of the state government comes to a standstill in the state where elections are to be held. In this regard, it also affects the normal functioning of the administration. After simultaneous elections, the code of conduct will be applicable for a short time and will also help in reducing the deadlock in the implementation of policies and functioning of governance. The normal day to day life is also impacted. The political rallies lead to large scale disorder in the cities. If simultaneous elections are held, such interruption will be created at a specified time only for a specified period of time. By conducting simultaneous elections, the important time which is usually stretched for a long time in election-related works will be devoted to this work. This labour force and government machinery will be utilized in a better way. Moreover, if a time limit is fixed in the interest of elections, it will give them enough time to make meaningful and significant contributions to the economy and the society.

Simultaneous elections are also in favour of reforms in the democratic process. This view supported that there is a need to reduce the need to oust the government. Instead of a no-confidence motion, a new no-confidence motion should be imposed in which the ruling party remains the same but the concerned person is removed from office and a new person is appointed in his place. In this way the previous government should not be ousted and there should be no need to conduct elections. By conducting simultaneous elections, the purpose of such an arrangement would be achieved. If elections are held simultaneously, once in five years, then the arbitrariness of central governments on the elected state governments will not work easily and they will not be dismissed easily. Misuse of Article 356 will reduce, federalism will strengthen and governments will get stability.

Disadvantages of Simultaneous Election

Election Commission of India has raised the issue that simultaneous election will require electronic voting machines and VVPAT machines on a large scale and according to the commission its cost is estimated at Rs.9284.15 crore. These machines will need to be replaced after every 15 years. Besides this, storage of machines will add to their storage cost which will further add to the election related expenditure. If the State Legislative Assembly or Lok Sabha is dissolved before its scheduled date, how to deal with such a situation? Haven't found a way around this yet? Will the expenditure incurred in solving such a problem be less or its cost will also be equal to the expenditure incurred in conducting separate elections, because in such a situation its purpose will be futile. This situation needs to be made discussed in order to get a clear picture of the financial scenario.

Holding of simultaneous elections will probably be the biggest challenge considering the constitutional set up of our country. firstly, Article 83(2) of the Constitution and A combined reading of 171(1) makes it clear that in case of Proclamation of Emergency, the term of additional Lok Sabha and State Legislative Assemblies cannot be extended by for more than five years. In case of holding simultaneous elections, either the term of the Lok Sabha or the term of some State Legislative Assemblies would have to be extended, but this is not permitted under the above articles of the Constitution. The government of the day needs to have the confidence of the assembly during its tenure. At any time during its tenure, the government may fall if it does not have a majority. Two, there is no provision in the constitution to hold elections to the State Legislative Assembly, nor to the Lok Sabha simultaneously, nor to hold mid-term elections. A government can remain in power only till it gets the confidence vote of this parliament. The system of conducting simultaneous elections can work only when the tenure of the governments is fixed for five years without the compulsion of a vote of confidence in the Parliament. This principle negates the concept of an important instrument under the control of the legislature over the executive.

By conducting simultaneous elections at central and state level, there are high chances that the votes at local level, state level and national level will get mixed with each other. People get an opportunity to raise their voice on these issues when elections are held at different times. Issues in the State Assemblies are fought on issues from the State List and exclusively within the purview of the State Government, while the issues in the Lok Sabha elections are broad and national in scope. The simultaneous election would help the larger national parties to win elections both at the state and Lok Sabha levels and result in the ineffectiveness of regional parties that often represent the interests of local social and economic groups. This will reduce the importance of the representative Indian democratic system. In a democratic country like India, the will of the people is paramount and if it is compromised in any situation, then the whole effort to improve the functioning of democracy will fail. The electorate elects a government for five years, but the government collapses due to practical reasons. The will of the public should be respected at any cost.

It is believed that elections tell the current trend of the day. If there is an elected government for the first five years or so, it does not give the mandate of that time, while the state elections provide this opportunity. The more effective way of knowing public opinion from time to time on key issues in different elections need to pay attention to social diversity is in contrast to political diversity. If the elections to the Legislative Assembly of a State are held simultaneously with the General Elections, it is likely that the results will be almost the same as in the General Elections. Due to this, the Rajya Sabha, the permanent house of parliament, which represents the states at the centre and controls the Lok Sabha, is likely to be dominated by the members of the ruling party at the centre and thus the concept of two houses. Elections also generate a large number of employment opportunities for the people. Which boosts the economy at the grassroots level. This will be inversely affected by conducting elections only once in five years.

Opinions of Various Political Parties

AIDMK has supported this idea in principle with some contrasts and intense discussions. The Assom Gana Parishad has given arguments in support of this view that it will reduce the financial burden on the left parties and reduce the time period with the model code of conduct applicable to the states, which is often the policy. It helps in the implementation of developmental programmes. The Trinamool Congress also rejected the idea saying that postponing the elections was undemocratic and unconstitutional as the constitution provides for a five-year term for the Lok Sabha and state assemblies. However, the party supports simultaneous elections to the panchayats and municipal bodies.

The CPI has rejected the idea as unscientific and impractical. The proposal looks promising but it has many practical problems. In the present situation it is not practical to hold simultaneous elections. DMK has supported this view with some suggestions. The Indian National Congress has called this idea impractical. At the same time, due to this there will be imbalance in the diversity and population of the world. The Indian Planning League has supported this idea and considered it useful for saving the resources of the world. The Nationalist Congress Party also considered this idea unviable. The Shiromani Akali Dal has supported the idea after bringing out the clarity regarding the possible course of action in the matter of the Legislative Assembly.

Opinion of Experts

Former Election Commissioner S.Y. Qureshi stated that "The idea is very simple from the point of view of resources and election management especially for the Election Commission. Since the election machinery is one, the Election Commission should not have any problem in this. Provided that the matters are constitutional and legal. India is not yet in a position to conduct Lok Sabha elections with all the states. Even if all the elections are held together, there is no guarantee that no government will fall before Lok Sabha election. Then what will happen to 28 state assemblies in such a situation. There is no clear position regarding this." Further explaining the pros and cons of this idea, Mr. Qureshi says that "When elections are held every time in any part of the country, it leads political parties to indulge in unethical activities and a large amount of black money is used." Along with this, communalism is also being spread on a large scale, that's why there is a question mark on the democratic system of elections time and again. But of course, there are problems with the idea of one nation election at the same time. After simultaneous elections, the representatives of political parties do not come back to the public after winning the elections. Along with this, it is not only the administration that spends money on elections, but political parties also spend a lot of money on elections, which affects the economy of the country". But Mr. Qureshi gives a second way between the pros and cons. He says that "excessive expenditure in elections is due to the fact that there is a limit on expenditure on a person standing in an election but there is no limit on expenditure on political parties. There should be a ban on this". At the same time, if elections are held simultaneously, the same situation can be created again as it happened in 1967. That means the federal structure of India can be harmed.

Drawing attention to the constitution and its legal aspect, constitutional expert Subhash Kashyap says that "the framers of the constitution had not thought of simultaneous elections while framing the constitution. There is no difficulty in applying this principle in practice, nor does it require any constitutional amendment. Lok Sabha and state assembly elections are being held simultaneously till 1967. In Article 83 (2) and 172 (1) in the Lok Sabha and the State Legislative Assembly has a fixed term of 5 years. That's why the maximum term of the legislature is fixed in the constitution, unless it is dissolved before this time. But along with this there is also the issue of all political parties. I have always been in favour of this principle. But it would be right to do this principle slowly and not all at once". But along with this many other reforms will also have to be done. The concept of no confidence motion will be reformed and it will be necessary to name the Council of Ministers after that".

Advocate Rahul Dev says that there is more profit in applying this principle. There are defects in the system, but in this system, probably this system has more advantage. When the country remains in the process of election all the time, then the development is hindered. It will be expanding governance operations along with saving costs. Simultaneous election should not mean at all that the government will not run for five years under any circumstances, otherwise the people will turn into an authoritarian system. In any system, it is not necessary that the government should run only for five years. It is inevitable if those running the government become incompetent or indulge in some corruption". Former Secretary of Law Ministry, PK Malhotra stated that "This idea has come up many times in the past as well. I would like to emphasize on two things first desire and second practical side. When the voter casts his vote for the merger of the election together, then it is possible that his opinion may be inclined towards any one party whether it is the state level party or the national party. On the practical side, the constitution is paramount, today the constitution will have to be amended in order to implement the 1951 system and it is not possible for all the parties to come together in contemporary time.

The founder of Association for Democratic Rights, Jagdeep Choker says that "Whether it is a matter of simultaneous elections or imposition of President's rule after the expiry of the term of the state, the most important task is that of the Parliament and the concerned state. Laws are made in the Parliament only. But the fact is that there are political hurdles in making the law. Many Parties including the main opposition party are not ready for it. In such a situation, if the BJP passes any proposal in the Parliament, it will be difficult to pass the constitutional amendment in Lok Sabha and Rajya Sabha. On this, the chairperson of the Law Commission, Retd. Justice B.S Chouhan says, "Almost all the political parties have given their opinion on this issue to the Law Commission. They have said that if simultaneous elections are to be held, many amendments will have to be made in the constitution, which does not seem practical at present. Not only this, the government does not even have the required strength in the Rajya Sabha to amend the constitution.

Conclusion

Simultaneous elections in India would mean that the terms of the Lok Sabha and State Assemblies would be of fixed duration. Along with this, if this system is adopted, many problems may arise in future also. The first problem would be reflected in adjusting the remaining periods of the State Legislatures whose term is different from the duration of the assembly. It is not decided in any proposal of this idea that what will happen to the remaining term of the State Legislative Assemblies? Will the duration of these assemblies be reduced or increased? Provision has to be made for this only. Along with holding elections, some constitutional questions also arose. The constitution does not allow extension of the term of the legislature except during emergency. However, according to Section 14 and 15 of the Representation of the People Act, 1951, the elections to the Lok Sabha/State Legislative Assembly can be held six months in advance. In the 79th report of the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice of the Rajya Sabha, it has been mentioned about the impracticality of holding simultaneous elections a decade ago. As mentioned earlier, even at the time of India's independence, simultaneous elections were held throughout the country, but through governor's office and Article 356 governments were abolished. If the country fires up at this idea of simultaneous elections, there is no certainty that this will not do happen again. One complication on this issue is that elections cannot be held simultaneously as there is no consensus among all political parties on this issue. Till the political parties do not agree on the idea of this concept, then the idea starts to be fanciful. Democratic governance does not mean only elections at fixed times. A better democracy is one where the public continuously participates in the governance and plays the role of an active citizen. Aristotle, in his classic work 'Politics', considered a citizen to be one who constantly and actively participates in governance. According to Lohiya, the alive community does not wait for five years. On the one hand the idea of one day one election is totally impractical, the other is not even compatible with the basic idea of the democracy. In our country's constitutional structure, governments are elected for five years and when the legislature loses confidence in the government, mid-term elections are held and thus a new government is formed. In this way, the public gets a chance to continuously search for new options. How can it be advocated to eliminate this option in the name of 'one country, one election'? We cannot put the country's democratic diversities and parliamentary system in jeopardy in its name. The main reason for this is also the technical problem. Election commission will need a greater number of EVMs, a greater number of VVPAT machines. If this is done in the first instance, it may cost Rs 4555 crore more. In addition, 9.4 lakh Voting Control Units will have to be installed. The Election Commission has made this assessment keeping all the states together. Security arrangements will also have to be made in these states. In this way, the idea of holding simultaneous elections that money will be saved is rejected and this idea is not feasible in any way.

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