

Election Process – Constant Vigilance

After cricket and Bollywood, the third phenomenon that enthuses Indians is elections. Indians from different walks of life may talk about politicians and politics with contempt and hostility, but everybody knowingly or unknowingly is deeply engaged with this process called election. During my 40 years in journalism, I had the opportunity to cover elections in many countries including Pakistan, Bangladesh and the United States. With that experience I must say that no country can match India in the disciplined way elections are held.

In the 1970s and 1980s, with only one political party dominating almost through-out the country, the final results used to be predictable. Even then, there were close contests in some constituencies that attracted news media from all parts of the country and even from abroad. In southern states, the larger than life cut-outs of party leaders and candidates were the election highlights for a long time. After the 1970s, ideological battles gave way to the idea of “elective merit”. Character, knowledge, devotion to public service, ability to solve common citizens’ problems and other such qualities became secondary. Booth capturing, theft of ballot boxes, bogus voting, which were unknown to most western democracies, became a regular feature of every election, especially in the eastern states, – viz., Uttar Pradesh and Bihar. Political parties and candidates began to spend huge amounts in every election from the local bodies to the Lok Sabha. In fact, many analysts believed that elections were the biggest source of black money. Nobody thought that this ugly reality could ever be changed.

The credit for an unexpected turn-around undoubtedly goes to T. N. Seshan. Until he took over as the Chief Election Commissioner (CEC), very few knew of the existence of the central Election Commission (EC) and its chief. It is quite surprising that even after the Supreme Court conferred enormous power on the CEC, none of Seshan’s predecessors exercised it. Justice V. R. Krishna Aiyer, in *Mohindersingh Gill vs the CEC* (1978), had ruled that the EC, being a creation of the constitution, can-not be restrictive, as it has to address infinite challenges that may emerge from time to time, in a large democracy such as ours. Justice Aiyer went further to record that “the CEC has not to fold his hands and pray to God for divine inspiration or to look to any external authority for the grant of powers to deal with the situation”. Seshan was the first CEC to implement justice Aiyer’s guidelines in letter and spirit and effectively use the power bestowed on that authority. By applying his extraordinary ability as an experienced bureaucrat, he energised the same election machinery that had

become timid and incompetent over the years. Overcoming all the hurdles placed in his path by political parties and the central government, Seshan established the supreme authority of the EC, which could not be diluted even after his retirement.

Seshan brought about a revolutionary change in the election process. Candidates with criminal background, who had never feared the police, felt intimidated by the presence of an election officer of the EC at a campaign meeting. It was a pleasant surprise to voters that midnight rallies that disturbed their life were stopped. Disfigurement of public places with posters, banners, balloons, hoardings and graffiti were gone. The level of noise pollution came down and “street corner meetings” became the only effective way for candidates to address voters. These changes reinforced the common citizen’s faith in democracy and the electoral process. The EC’s untiring efforts instilled a new confidence that “My vote is my weapon” and that “even a heavy-weight politician can be shown the door”. That is the reason, we find people’s participation in and enthusiasm for elections increasing steadily, whether the elections are for the Lok Sabha, Vidhan Sabha or local bodies.

Since 1977, I have covered many elections in various states, and the most common feature I have noticed is that every election brings about a festive mood in the constituency. As a noted anthropologist Ms. Mukulika Banerji has observed in her article “Why Indians Love to Vote”, - “Statistics show a steady rise in turn out figures over the last three decades in several parts of India”. I must mention here that boycotting an election was a regular threat in certain constituencies until the 1990s. However, propagators of such calls have now realised that their appeals or threats have no impact on voters. I have seen this in Naxal affected areas in Chhattisgarh and in Kashmir Valley in the grip of militancy. It was unbelievable that separatists’ calls that could paralyse life in the valley had no impact when it came to polling. From the Lok Sabha to the local bodies, the voter turnout was always large and at times gave us the impression that Kashmiris had forgotten their traditional hostility towards Delhi. I saw in semi-urban areas of UP, polling centres crowded with voters even when closing time for polling was near. Election officers had to close the outer gates at the prescribed time but had to make polling arrangements for all those who had reached there before the final time. Such polling would continue for another one or two hours. Statistics show 95% to 100% polling at some centres, especially during local body elections.

Though welcome, this trend raises a question: - What does this enthusiasm for voting signify? Many reasons are suggested - from intimidation to allurements to regional or caste aspirations to personality impact. However, a detailed 3-year study carried out by scholars of the Jawaharlal Nehru University concluded that more and more people vote for development issues rather than merely to support a party that projects their ethnic or caste polity. Not all politicians and media persons would agree with this finding, but development is certainly a major factor and cannot be ignored.

All stakeholders must give credit to EC's and SEC's contribution to the rise in voter turnouts. The Commissions' awareness drives even during non-election periods, voter enrolment and cleaning up of electoral rolls has played a major role in making the elections "fair". Insistence on authentic identity cards significantly curbed the practice of bogus voting. Maharashtra SEC's efforts resulted in significant rise in the recent polling percentage of 10 major municipal corporation elections which recorded 57% compared to 48% last time. The election was the only time when citizens found the administration (that means the EC) doing its work free of political pressures. That was entirely because of the model code of conduct imposed by Seshan and his successors. 'Achar Sanhita' has become a dreaded word for politicians during every election. Successful use of advanced technology in the form of electronic voting machine (EVM) - that too in a country of India's size and population - impressed even the most advanced countries. EVMs have eliminated the possibility of invalid votes and put an end to the malpractices associated with ballot papers. The recently introduced NOTA (None of the above) option has added a new feature not only to the election process but to our democratic system itself. Maharashtra SEC has added some new reforms that have further strengthened the election process. Candidates now have to give details of his income sources at the time of filing his application. Political parties now have to file copies of Income Tax Returns as well as the audited annual accounts. SEC has deregistered nearly 220 parties that did not comply with such mandatory provisions.

Even as many malpractices were stopped by EC's strict measures, a new dangerous phenomenon gripped the election process of our country - "paid news". Two words that can never come together by the standards of journalistic ethics were joined to suit the desperate need of candidates. Media that boasted of being the fourth estate of our democracy, declared, although unofficially, that news was a saleable product. They saw every election as an opportunity of making money. During my journalistic days I had seen political heavy weights with muscle power and

money power coming to reporters and editors with a begging bowl, – requesting highlighting of a particular campaign theme. Those reporters and their editors have now become redundant during elections. Instead, marketing experts approach political parties and candidates with “packages”. Money exchanged in these deals is neither reported in the campaign expenditure of the candidates nor in the accounts of the media house.

Black money has thus found a new channel to impact elections. The EC has no powers to curb such transactions and the Press Council of India (PCI), the only regulatory body for journals and journalists (but not for electronic media), has limited authority to control this new trend in journalism. I had the honour of working as a member of the PCI, and I must say that despite all its limitations, the PCI did a brave job in exposing the menace of paid news, in 2009.

Overcoming stiff resistance from many media barons, the PCI formed a committee of two devoted working journalists – Pranonjay Guha Thakurta and K. N. Reddy. They worked hard to examine a number of cases related to paid news and warned of the serious consequences for our election process of this dangerous ‘business model’ of certain media houses. One particular election was taken up as a representative case – a complaint against *Amar Ujala* and *Dainik Jagran* for publishing paid news in favour of Ms. Umlesh Yadav contesting in the Bisauli Vidhan Sabha constituency of Uttar Pradesh. The wife of billionaire strongman D. P. Yadav had won the election in 2007, as a candidate of Rashtriya Parivartan Dal. The PCI, in its order, held both newspapers guilty of ethical violations. It cautioned the news media to refrain from publishing advertisements masquerading as news and decided that its adjudication, along with all the case papers be sent to the EC “for such action as deemed fit by the Commission”.

The PCI observed:

The format of the impugned material was such that it would appear as a news report to the layman and the word “advt” printed at the lowest end rather appeared to accompany a small box appeal by the candidate. There was beyond doubt a possibility of confusing voters when the elections were just a day away and campaigning had stopped. The act was not only unethical by journalistic standards but also in violation of the election laws.

Based on the findings of the PCI, EC unseated and disqualified Ms. Yadav from contesting again for three years. It held Yadav guilty of not reporting in her official expenditure accounts, the amounts

she spent on advertisements in those two newspapers. The EC's verdict on 20 October 2011 was considered "historic", in journalistic circles.

That was the first case in which an elected candidate was unseated and disqualified for indulging in "paid news".

Unfortunately, it is also the last case to date of such misconduct being punished.

While delivering the judgment, the then CEC S. Y. Quereshi expressed the hope that "This first disqualification would put an end to candidates resorting to 'paid news' in the days to come". Instead, media houses learned a lesson from that experience and began to use more subtle and sophisticated ways to present 'paid news'. Political parties and candidates found a new 'M weapon' in the form of media power in addition to the two they held already – muscle power and money power.

During my three years as a PCI member, I observed hundreds of complaints against paid news (both in newspapers and on television channels) pouring into the PCI office every week. The PCI had neither the machinery nor the staff strength to examine even a fraction of those cases. We proceeded with the only available option - issuing guidelines to State Election Commissions (SECs) to monitor such cases. SECs are doing their bit by campaigning against paid news and forming monitoring committees. But such measures have had little effect. The paid news phenomenon continues to be an ugly blot on the election process in our country.

Paid news is not the only challenge SECs face. The Maharashtra SEC has been facing hurdles ever since it came into existence in 1994. It is entrusted with the responsibility of conducting elections for all local bodies in the state. With limited staff, holding elections for 27 municipal corporations, 361 municipal councils and nagar panchayats, 34 zilla parishads, 351 panchayat samitis and nearly 28,000 gram panchayats is a Herculean task. It is to the credit of the SEC that all such elections held since 1996 have been free, fair and smooth. I think the major problem the Maharashtra SEC faces is the lack of knowledge about its very existence, and its scope of work and authority not only among ordinary citizens but also among many in the government and media. Many politicians and even some bureaucrats do not realise that the SEC is an independent and autonomous body that does not work under the state government or the CEC. Very few are aware that the SECs are

formed by the 73rd and 74th constitutional amendments by the parliament and that central EC and SEC are two different institutions with equal rights. It is often seen that political parties and their leaders interact or clash with the SEC officers only when they face some kind of crisis. Recently we heard of a minister “ordering” an election officer in Gadchiroli district to allot his party symbol to a rival party candidate. His conversation went viral, and the SEC had to issue him a notice seeking an explanation. SEC then registered FIR against the minister and announced new polling schedule for the ward. Then one very senior minister announced the dates of municipal elections in his city citing his talk with the state election commissioner. SEC had to issue a rejoinder but had limitations in confronting such powerful persons in government.

It is unfair to expect perfectly satisfactory results from the SEC without the support of all stakeholders. State governments, media, the ruling party as well as the opposition must share responsibility with the SEC for conducting smooth, free and fair election. Politicians are in constant touch with the masses. Hence, they are the ones who know citizen’s expectations about elections. It is their duty to convey those expectations to the SEC so that it can take due action if and when necessary.

It is for the state government to respect the authority and autonomy of the SEC. Officials working for the SEC often face pressures from local politicians. Those who try to remain strict often face punishments like transfers. Even when the SEC makes genuine demands, bureaucrats question its propriety and authority. Even one such act can disrupt the functioning of the SEC at various levels. It must be remembered that the SEC’s functioning is not restricted to the election period. It has to work throughout the year keeping track of all the local bodies in the vast state of Maharashtra. Those working in the news media too should understand the strengths and weaknesses of the SEC and highlight them from time to time.

The University of Mumbai recently included ‘Election’ as a subject in the curriculum of its media courses. It is a commendable decision as media persons and media students need to know the laws, regulations, systems and agencies related to the election process. Such education will improve the quality of election reporting. Other universities too should follow this lead. Similar training is needed for politicians, especially for people’s representatives. A special refresher course can be organized by YASHADA to sensitise politicians to the importance of the SEC not only during elections but throughout the year.

The SEC too needs to take certain steps to enhance the credibility of the election process in the state. To control the menace of paid news, it should form committees comprising of independent senior journalists, retired judges and police officers to investigate complaints about paid news. In serious cases, their observations should be placed before the PCI. Based on the findings of the PCI, the SEC can announce the quantum of punishment to the concerned candidates. In spite of several requests by the PCI, the government of India has not brought the electronic media under the purview of the PCI nor given it penal powers. Hence, at present, the power to punish candidates for paid news is vested with the SEC, but it can do no real damage to the media houses, even if charges are proved. However, the PCI has the authority to admonish and/or censure erring newspapers (but not TV channels). EC and SEC should encourage the PCI to do that at least in few selected cases during every election. Even if there are ten cases in a year where candidates are punished by SEC, as in the case of Umlesh Yadav, and newspapers censured by the PCI, it will prove to be a deterrent to both candidates and media houses. If candidates can not benefit from paid news, the demand for this media “product” will disappear.

All stakeholders, especially political leaders, media persons and citizens’ groups, must act proactively to strengthen the hands of the SEC so that it can effectively use the range of its power for the conduct of every election in an ideal manner.

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YASHADA