



Let the Grassroots Breathe

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(This editorial is based on the article “Let the Grassroots Breathe” which appeared in The Hindu on 11th January 2019.)

Recently, Rajasthan Government scrapped the minimum educational qualification criteria for candidates contesting local body elections.

Background

- This reverses the amendments introduced by the **previous government in 2015 which required candidates contesting the Zila Parishad and Panchayat Samiti elections to have passed Class 10 and those contesting Sarpanch elections to have passed Class 8.**
- Further, it disallowed those without functional toilets in their home to contest. Following this, Haryana also introduced similar restrictions for contesting local body elections.
- In December 2015, a two-judge Bench of the **Supreme Court in Rajbala v. the State of Haryana upheld the validity of the amendments to the Haryana Panchayati Raj Act.**
- In a contentious judgment authored by **Justice J. Chelameswar, the court held that prescription of educational qualification was justifiable for better administration** and did not violate the right to equality enshrined in the Constitution.
- The latest **decision of the Rajasthan government has once again revived** the debate on the fairness of having such restrictions.

Prescribing educational qualifications for contesting elections is problematic in multiple ways-

- Fundamentally, **it unduly restricts a citizen’s right to contest elections** and thereby challenges the basic premise of republican democracy.
- **Denying the right to contest effectively restricts the right of a citizen to vote for a candidate of her choice** since more than half the population is restricted from

contesting.

- Further, it disproportionately **disenfranchises the more marginal sections of society: women, Dalits and poor.**
- In a country like India with unequal access to education, it is cruel to blame citizens for the failure of the state to fulfill its constitutional obligations.
- **These restrictions reveal that State governments and courts do not value local governments for their representative character.**
- Prescribing educational qualifications for contesting elections is based on an ill-informed assumption that those with formal education will be better in running panchayats. On the other, it reveals that State governments and courts place a premium on the administration over-representation in case of local governments.
- This **approach goes against the very objective of the 73rd and 74th Amendments** that sought to make panchayats and municipalities representative institutions with adequate representation from Scheduled Castes, Scheduled Tribes, and women.
- Though local governments now have a definite space within India's constitutional structure, they are still seen as administrative vessels for implementing programmes of the Central and State governments.
- The disqualification of candidates who don't have toilets in their home or defecate in open is clearly an example where the **implementation of a Central programme like the Swachh Bharat Mission gets precedence over the need for representative government.**
- **After all, such restrictions do not exist for those contesting parliamentary or Assembly elections.** In fact, in the present Lok Sabha, **13% of MPs are under-matriculantes, a share higher than those of women MPs.**
- These amendments also mandated the creation of a State Election Commission (SEC) in each State for the preparation of electoral rolls and the conduct of elections to panchayats and municipalities. However, in most States, tasks like delimitation of seats are still done by the State government instead of the SEC. It is often under the guise of delimitation of seats that local government elections are delayed, especially when the party in power fears losses.
- Delaying elections and adding restrictions to contest prevent local governments from becoming truly representative institutions.

Need for Minimum Education Qualification

- **In Rajbala case, the Apex court held that prescription of educational qualification is relevant for "better administration of the panchayats".**
- The Bench consisting of Justice Chelameswar and A.M.Sapre held that both the rights namely "Right to Vote" and "Right to Contest" are not fundamental Rights but only constitutional rights of the citizen. So, the minimum qualification for contesting election can be imposed.
- With minimum education qualification, there is a reduction in the chances of getting

mislead by other people.

- **Setting educational criteria would motivate society to be literate.**
- A well-educated man is considered as the resource for the development of the country. And if the leaders of the human resource are illiterate then there would be no proper guidelines for human resource.

Way Forward

- India prides itself as a robust democracy, at least in the procedural sense, with regular elections and smooth transfer of power.
- **However, the absence of elected councils in some local governments punches holes in this claim.**
- The lack of alarm caused by the denial of local democracy (via the imposition of minimum educational norms) reveals our collective bias regarding the place of local governments.
- In a liberal democracy, governments must desist from putting bars on who may contest, except in exceptional circumstances, such as when a candidate is in breach of particular rules and laws.
- To mandate, what makes a person a 'good' candidate goes against the spirit of the attempt to deepen democracy by taking self-government to the grassroots.
- **Thus, local bodies should be elected for its representative character and not for its administrative functions. Giving a voice to the people is more important than following bureaucratic procedures at the grassroots level.**