



# INFORMATION BULLETIN

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## VICE-PRESIDENTIAL ELECTION 2017

The Constitution provides that there shall be a Vice-President of India<sup>1</sup>. Article 64 lays down that the Vice-President shall be *ex-officio* Chairman of the Rajya Sabha and shall not hold any other office of profit.

The Vice-President acts as the President in the event of occurrence of any vacancy caused by death, resignation or removal of the President or otherwise until the new President is elected and assumes office which in no case shall be later than six months from the date of occurrence of the vacancy.<sup>2</sup> The Vice-President also discharges the functions of the President when he is unable to act owing to absence, illness or any other cause until the date on which the President resumes his duties.

There have been several occasions when the Vice-President discharged the functions of the President owing to the absence or illness of the President. In both the contingencies, that is, Vice-President acting as, or discharging the functions of the President, the Vice-President is referred to as acting as or discharging the functions of the President.<sup>3</sup> The Constitution lays down that during this period, the Vice-President shall not perform the duties of the office of Chairman of the Rajya Sabha.

The Vice-President, Shri Mohammad Hamid Ansari is completing his second five-year term on 10 August

2017. It is thus necessary that the process of the Vice-Presidential Election should be completed and result declared in time so that the new Vice-President assumes office on or before 11 August 2017. So far, Fourteen Vice-Presidential Elections have taken place from 1952 to 2012 (for a complete list of Vice-Presidents, see *Annexure*). The Fifteenth Vice-Presidential Election is scheduled to be held in August 2017.

### Term of office of the Vice-President

The Vice-President holds office for a term of five years from the date on which he enters upon his office and continues to hold the office notwithstanding the expiration of his term, until his successor enters upon his office.

### Vacation of Office

The Vice-President may resign his office before the expiry of his term. Such resignation is to be given in writing addressed to the President of India. The Vice-President may also be removed from his office by a resolution of the Rajya Sabha, passed by a majority of all the then members of the Rajya Sabha and agreed to by the Lok Sabha.

### Election of the Vice-President

Election to the Office of the Vice-President is regulated by the Presidential and Vice-Presidential Elections Act, 1952, and the Rules made thereunder. Article 324 of the Constitution read with the Presidential and Vice-Presidential Elections Act, 1952, and the Presidential and Vice-Presidential Elections Rules, 1974 vest the superintendence, direction and control of the conduct of election to the office of the Vice-President of India in the Election Commission of India.

**Role of Election Commission:** The Election Commission is mandated to ensure that the

<sup>1</sup> See articles 63 to 71, Constitution of India.

<sup>2</sup> In the last sixty-seven years, twice the occasion arose when the Vice-President acted as the Acting President. After the sudden demise of the President, Dr. Zakir Husain on 3 May 1969, the Vice-President, Shri V.V. Giri assumed the office of the Acting President until 20 July 1969. Similarly, when the President, Shri Fakhruddin Ali Ahmed passed away on 11 February 1977, the Vice-President, Shri B.D. Jatti, assumed office of the Acting President until 25 July 1977.

<sup>3</sup> When the Vice-President acts as President or discharges the functions of the President, he has all the powers and immunities of the President and is entitled to the same emoluments, allowances and privileges as are admissible to the President.

election to the office of the Vice-President of India must be a free and fair election and the Commission takes all necessary steps for discharging its constitutional responsibility. The Notification containing the programme of election to the Office of Vice-President is issued by the Election Commission.

**Role of Parliament Secretariat and Returning Officer:** Under Section 3 of the Presidential and Vice-Presidential Elections Act, 1952, for the purpose of each election, the Election Commission shall, in consultation with the Central Government, appoint a Returning Officer, who shall have his office in New Delhi and may also appoint one or more Assistant Returning Officers. By convention, the Secretary-General, Lok Sabha and the Secretary-General, Rajya Sabha are appointed as the Returning Officers by rotation. For the 2012 Vice-Presidential Election, Secretary-General, Lok Sabha was appointed the Returning Officer. Therefore, for the 2017 Vice-Presidential Election, the Secretary-General, Rajya Sabha, may be appointed the Returning Officer<sup>4</sup>. Two other senior officers of the Rajya Sabha Secretariat may also be appointed as the Assistant Returning Officers.

### Process of Vice-President's Election

Process of Vice-President's election starts with the Notification issued by the Election Commission of India. Under the provisions of sub-section (1) and sub-section (3) of section 4 of the Presidential and Vice-Presidential Elections Act, 1952, the notification calling the Vice-Presidential Election can be issued by the Election Commission on or after the sixtieth day before the expiry of the term of office of outgoing Vice-President, *i.e.*, notification containing the programme of election to the office of the Vice-President can be issued in the present case by the Election Commission on any day after 12 June 2017.

The Notification contains details about the last date for making nomination; scrutiny of nominations on; last date for withdrawal of nomination; date of poll and counting of votes. The Programme for the 2017 Vice-Presidential Election will be notified in due course.

### Eligibility for Election

Article 66 of the Constitution provides that a person eligible for election as Vice-President should be:—

- a citizen of India;

- must have completed 35 years of age; and
- should be qualified for election as a member of the Rajya Sabha.

Such a person should not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments. However, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State. If a sitting member of Parliament or of a House of the Legislature of any State is elected as Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as the Vice-President.

### Eligibility for Re-Election

The Vice-President, present or former, is eligible for re-election for any number of times.

#### Vice-Presidents who have served more than one terms

Dr. S. Radhakrishnan (1952-62) and Shri Mohammad Hamid Ansari (2007-2017) are the two Vice-Presidents who have served two terms as Vice-Presidents of India.

### Filing for Nomination and the Role of Electors

Apart from meeting the above-mentioned eligibility criteria, a nomination paper of a candidate for the election in the prescribed form (Form 3 appended to 1974 Rules) has to be subscribed by at least twenty electors as proposers and another at least twenty electors as seconders. Not more than four nominations can be filed by or on behalf of a candidate or accepted by the Returning Officer. No elector shall subscribe whether as proposer or as seconder, more than one nomination paper at the same election and if he does so, his signature shall be inoperative on any paper other than the one first delivered to the Returning Officer. Each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the current Electoral Roll for the Parliamentary Constituency where he is registered as an elector.

<sup>4</sup> Background material regarding Fifteenth Election to the Office of the Vice-President 2017, Election Commission of India.

## Changes in Requirements for a Valid Nomination for Vice President<sup>5</sup>

	Presidential and Vice-Presidential Elections Act, 1952	Presidential and Vice-Presidential Elections (Amendment) Act, 1974	Presidential and Vice-Presidential Elections (Amendment) Act, 1997
No. of Proposers to the Vice-Presidential Election	1	5	20
No. of Seconders to the Vice-Presidential Election	1	5	20
Security Amount (in Rs.)	0	2,500	15,000

A prospective candidate should deposit a sum of Rs. 15,000/- as security,<sup>6</sup> either in cash with the Returning Officer or enclose a receipt with the nomination paper showing that the said sum of Rs. 15000/- has been deposited by him or on his behalf in the Reserve Bank of India or in a government treasury.

### Electoral College

The Vice-President of India is elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of single transferable vote. The voting at such election is by secret ballot.

#### Members not eligible to vote

*Members in respect of whom the appropriate court, i.e., High Court or Supreme Court has given a limited stay of operation of the order of setting aside of his election by the Court, are not entitled to vote at the election, though their names may have been included in the Electoral College.*

Under rule 40 of the Presidential and Vice-Presidential Elections Rules, 1974, the Election Commission is required to maintain a list of members of the above referred Electoral College with their addresses corrected upto-date. In such an election, the elected members of Rajya Sabha; the nominated members of Rajya Sabha; the elected members of Lok Sabha; and the nominated members of Lok Sabha are the members of the electoral college. The names will be numbered in a continuous series and will be arranged in alphabetical orders of the State/Union Territory of the respective Houses. The list of Electoral College for the Vice-Presidential Elections 2017 will be made available for sale in July 2017.<sup>7</sup>

<sup>5</sup> Information Bulletin on Vice-Presidential Election, 2012.

<sup>6</sup> The deposit shall be forfeited if the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the number of votes necessary to secure the return of a candidate at such election. In other cases, the deposit will be returned to the candidate.

<sup>7</sup> Background material regarding Fifteenth Election to the Office of the Vice-President of India 2017; Election Commission of India.

### Electoral College for the Fifteenth Vice-Presidential Election

#### Rajya Sabha

Elected:	233
Nominated:	12

#### Lok Sabha

Elected:	543
Nominated:	2

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<b>Total</b>	<b>790</b>
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### System of Proportional Representation by Means of Single Transferable Vote - Detailed Procedure

The manner of voting at Vice-Presidential Election is contained in Rule 17 of the Presidential and Vice-Presidential Elections Rules, 1974. The ballot paper shall contain the names of the contesting candidates, but does not contain any election symbol. There will be two columns in the ballot paper. Column 1 of the ballot paper contains the heading “Name of Candidate”, and Column 2 contains the heading “Mark order of Preference”.

#### Value of Each Vote

The value of vote of each member of Parliament, for the Vice-Presidential Election, is **ONE**.

Each elector shall have as many preferences as there are candidates, but no ballot paper shall be considered invalid solely on the ground that all such preferences are not marked, provided the first preference is validly marked.

An elector in giving his vote shall place the figure “1” in the space opposite the name of the candidate whom he chooses for his first preference and may, in addition, mark as many subsequent preferences, as he wishes, by placing on his ballot paper the figures 2, 3, 4 and so on in the spaces opposite the names of other candidates, in order of preference. The

figures may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language.

### Ensuring a Valid Vote

During the Vice-Presidential Election, 2012, out of 790 electors, 736 (93.16%) electors voted at the election. Of these, 8 votes were found to be invalid. To ensure that none of the votes become invalid at the Vice-Presidential election, the electors must take care of the following:-

*The preferences should not be indicated in words like one, two, three. It will invalidate the ballot paper.*

### Change in the Method of Election

Article 66 of the Constitution, as originally enacted provided that the Vice-President was to be elected by the members of the both Houses of Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote. No such joint meeting, however, took place in the Vice-Presidential Election held either in 1952 or 1957, as on both occasions the election was uncontested. It was on closer consideration felt that the various stages of an important election of this character could not be satisfactorily or conveniently gone through at a joint meeting of more than 700 members assembled at one place. The clause was, accordingly, amended by the Constitution (Eleventh) Amendment Act, 1961 providing for election “by the members of an electoral college consisting of the members of the both Houses of Parliament” thereby dispensing with the earlier requirement of a joint meeting of both Houses of Parliament assembled for the election of the Vice-President. Article 71 of the Constitution was also amended to clarify that the election of the Vice-President cannot be called in question on the ground of existence of any vacancy for whatever reason among the members of the electoral college.

### Place of Poll

A room in the Parliament House in New Delhi is fixed as the place of poll. The full details of the place of poll for the 2017 Vice-Presidential election will be notified in due course.<sup>8</sup>

### Counting Method

The Returning Officer takes up the counting of votes at the hour fixed for such counting which is

<sup>8</sup> *Ibid.*

normally on the same day on which the poll is taken. The Returning Officer scrutinizes the ballot papers first and separates the invalid votes. The valid ballot papers are distributed among the contesting candidates by placing the valid ballot papers according to first preference marked therein in the tray meant for the candidate. After distributing all the valid ballot papers, the Returning Officer finds out the total of the valid ballot papers credited to each candidate.

### Quota for Election

After counting the total valid votes polled by each candidate, the Returning Officer totals up the valid votes polled by all the contesting candidates. Thereafter, the quota for declaring a candidate as elected is determined by dividing the total valid votes by 2 and adding one to the quotient, ignoring the remainder, if any.

For example, assuming the total of valid votes polled by all candidates is 789, the quota required for getting elected is as follows:

$$\frac{789}{2} + 1 = 394.50 + 1 \text{ [Ignore .50]}$$

$$\text{Quota} = 394 + 1 = 395$$

After ascertaining the quota, the Returning Officer has to see whether any candidate secured the quota for being declared as elected on the basis of the total of first preference votes polled by him/her. If no candidate gets the quota on the basis of first preference votes, then the Returning Officer proceeds further to second round of counting during which the candidate having lowest number of votes of first preference is excluded and his votes are distributed among the remaining candidates according to the second preference marked on these ballot papers. The other continuing candidates receive the votes of excluded candidates at the same value of ONE.

The Returning Officer will go on excluding the candidates with lowest number of votes in subsequent rounds of counting till either one of the continuing candidates gets the required quota or till only one candidate remains in the field as the sole continuing candidate and declares him/her as elected.

### Dispute over Election

Any doubt or dispute relating to a Vice-Presidential election can be raised only by means of an election petition after the election is over and it shall be inquired and decided by the Supreme Court, whose decision shall be final. An election petition calling in question an election to the office of Vice-President may be presented to the Supreme Court by any candidate at such election or by any ten or more electors joined together as petitioners. Such election petition may be presented within 30 days from the date of publication of the declaration containing the name of the returned candidate.

### Some Facts

- ⊗ The Vice-Presidents Dr. S. Radhakrishnan; Dr. Zakir Husain; Shri V.V. Giri; Shri R. Venkataraman; Dr. Shanker Dayal Sharma; and Shri K.R. Narayanan, later also became the Presidents of India.
- ⊗ The Presidential and Vice-Presidential Elections held in 1962 and 1967 were held simultaneously on the same date, that is, 7 May 1962 and 6 May 1967. As a result, several members who took the permission to vote at the State capitals for the Presidential Election could not vote for the Vice-Presidential Election held in New Delhi on the same date as voting for the Vice-Presidential Election takes place only in New Delhi.
- ⊗ In the Fifth Vice-Presidential Election held in 1969, there were as many as six contesting candidates—the highest number so far in all the Vice-Presidential Elections.
- ⊗ In 1979 for the Seventh Vice-Presidential Election, in all there were 13 nominations. The Returning Officer on Scrutiny rejected the nominations of all the candidates except that of Shri M. Hidayatullah, who was declared elected unopposed.
- ⊗ Similarly, in 1987 Vice-Presidential Election, 27 candidates had filed their nominations and on scrutiny only the nomination of Dr. Shanker Dayal Sharma was found valid and he was declared elected unopposed.
- ⊗ All the Vice-Presidents, who contested, secured the required quota of votes in the first round of counting and were declared elected.

## Vice-Presidents of India

1.	Dr. S. Radhakrishnan	(13 May 1952 - 12 May 1962)
2.	Dr. Zakir Husain	(13 May 1962 - 12 May 1967)
3.	Shri V.V. Giri <sup>9</sup>	(13 May 1967 - 3 May 1969)
4.	Shri G.S. Pathak	(31 August 1969 - 30 August 1974)
5.	Shri B.D. Jatti <sup>10</sup>	(31 August 1974 - 30 August 1979)
6.	Shri M. Hidayatullah	(31 August 1979 - 30 August 1984)
7.	Shri R. Venkataraman	(31 August 1984 - 24 July 1987)
8.	Dr. Shanker Dayal Sharma	(3 September 1987 - 24 July 1992)
9.	Shri K.R. Narayanan	(21 August 1992 - 24 July 1997)
10.	Shri Krishan Kant	(21 August 1997 - 27 July 2002)
11.	Shri Bhairon Singh Shekhawat	(19 August 2002 - 21 July 2007)
12.	Shri Mohammad Hamid Ansari	(11 August 2007 - till date)

<sup>9</sup> Shri V.V. Giri was the Acting President from 3 May 1969 to 20 July 1969.

<sup>10</sup> Shri B.D. Jatti was the Acting President from 11 February 1977 to 25 July 1977.



Prepared by Smt. Rachana Sharma, Additional Director under the supervision of Shri Atul Kaushik, Additional Secretary, Smt. Kalpana Sharma, Joint Secretary and Smt. Anita Khanna, Director, with inputs from the Election Commission of India, for the use of Members of Parliament. It is intended to serve as a background aid. Feedback is welcome and may be sent to [refdiv-lss@sansad.nic.in](mailto:refdiv-lss@sansad.nic.in).