

REPORT NO.

65



सत्यमेव जयते

**PARLIAMENT OF INDIA**  
**RAJYA SABHA**

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE  
ON PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE

**SIXTY-FIFTH REPORT**

**The Representation of the People  
(Second Amendment and Validation) Bill, 2013**

*(Presented to the Rajya Sabha on 9<sup>th</sup> December, 2013)*

*(Laid on the Table of Lok Sabha on 9<sup>th</sup> December, 2013)*



**Rajya Sabha Secretariat, New Delhi**  
**December, 2013/ Agrahayana 1935 (Saka)**



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\* To be appended at printing stage.

**COMPOSITION OF THE COMMITTEE**  
**(Constituted on 31<sup>st</sup> August, 2013)**

1. Shri Shantaram Naik — *Chairman*

**RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Ram Jethmalani
4. Shri Sanjiv Kumar
5. Shri Parimal Nathwani
6. Shri Ram Vilas Paswan
7. Shri Sukhendu Sekhar Roy
8. Shri Ramchandra Prasad Singh
9. Dr. Abhishek Manu Singhvi
10. Shri Bhupender Yadav

**LOK SABHA**

11. Maulana Badruddin Ajmal
12. Shri T. R. Baalu
13. Shri E.T. Mohammed Basheer
14. Shri N.S.V. Chitthan
15. Shri P.C. Gaddigoudar
16. Shri D.B. Chandre Gowda
17. Shri Shailendra Kumar
18. Shri Jitender Singh Malik
19. Shri Arjun Meghwal
20. Shri Pinaki Misra
21. Shri Abhijit Mukherjee
22. Shri S.S. Ramasubbu
23. Shri S. Semmalai
24. Shri S.D. "Shariq"
25. Smt. Meena Singh
26. Shri Vijay Bahadur Singh
27. Dr. Prabha Kishore Taviad
28. Shri Suresh Kashinath Taware
29. Shri Madhusudan Yadav
30. Vacant
31. Vacant

**SECRETARIAT**

Shri Alok Kumar Chaterjee, Joint Secretary  
Shri K.P. Singh, Director  
Shri Ashok K. Sahoo, Joint Director  
Smt. Niangkhanem Guite, Assistant Director  
Smt. Catherine John L., Assistant Director

## INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, having been authorised by the Committee on its behalf, do hereby present the Sixty-fifth Report of the Committee on the Representation of the People (Second Amendment and Validation) Bill, 2013. The Bill seeks to amend Section 8(4) of the Representation of People Act, 1951 in order to nullify the Supreme Court Judgment on the 10<sup>th</sup> July, 2013 in the *Lilly Thomas Vs. Union of India and Others* case.

2. In pursuance of the Rules relating to the Department-related Parliamentary Standing Committees, Hon'ble Chairman, Rajya Sabha referred the Bill, as introduced in the Rajya Sabha on the 30<sup>th</sup> August, 2013 and pending therein, to this Committee on the 27<sup>th</sup> September, 2013 for examination and report.

3. In the meantime, on the 24<sup>th</sup> September, 2013, the Representation of People (Amendment and Validation) Ordinance, 2013 was placed before Hon'ble President of India for assent by the Government to give effect to the provisions of the above-mentioned Bill since the said Bill remained pending in the Rajya Sabha after the adjournment of the 229<sup>th</sup> Session of the Rajya Sabha. However, on the 2<sup>nd</sup> October, 2013, a Cabinet Decision was taken and the said Ordinance was withdrawn by the Government. On 27<sup>th</sup> November, 2013, the Law Minister had given notice of his intention to move for leave to withdraw the Representation of People (Amendment and Validation) Bill, 2013, during the 230<sup>th</sup> Session of Rajya Sabha.

4. In the event of the above circumstances, the Committee considered the notice of motion for the withdrawal of the Bill which stands automatically referred to it in view Rules 275 read with 118 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) in its meeting held on the 5<sup>th</sup> December, 2013 and adopted the Report in its meeting held on the 6<sup>th</sup> December, 2013.

5. For the facility of reference and convenience, the opinion of the Committee has been printed in bold letters in the body of the Report.

**New Delhi;**  
December 6, 2013

**SHANTARAM NAIK**  
Chairman, Department-related  
*Parliamentary Standing Committee on Personnel,  
Public Grievances, Law and Justice*

# REPORT

The Representation of the People (Second Amendment and Validation) Bill, 2013, as introduced in the Rajya Sabha on 30<sup>th</sup> August, 2013 was referred for examination and report within 2(two) months to the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice on the 27<sup>th</sup> September, 2013. A copy of the Bill is enclosed (**Annexure-I**).

2. The Bill seeks to amend Section 8(4) of the Representation of People Act, 1951 in order to nullify the Supreme Court Judgment dated the 10<sup>th</sup> July, 2013 in the *Lilly Thomas Vs. Union of India and Others* case. That Section provides for a window to the legislators convicted of criminal offences to file an appeal or revision against their conviction and further permit them to retain their membership until the appeal or revision is disposed of. The said judgement has held that the Parliament has no power to enact sub-section (4) Section 8 of the Representation of the People Act, 1951 and declared that the said provision is *ultra-vires* of the Constitution.

3. The amendment proposed in the Representation of the Peoples ( Second Amendment and Validation) Bill, 2013, *inter alia*, is to substitute sub-section (4) of Section 8 of the Act, so as to provide that the disqualification in view of conviction under sub-section (1), (2) or (3) of the said Section in respect of a Members of Parliament or the Legislature of a State shall not take effect, if an appeal or application for revision is filed in respect of the conviction and sentence within the period of ninety days from the date of conviction and such conviction or sentence is stayed by a Court, and further to provide that after the date of conviction and until the date on which the conviction is set aside by the Court, the member shall neither be entitled to vote nor draw salary and allowances,

but may continue to take part in the proceedings of the Parliament of the Legislature of the State, as the case may be.

4. In the meantime, on the 24<sup>th</sup> September, 2013, the Representation of People (Amendment and Validation) Ordinance, 2013 was placed before Hon'ble President of India for assent by the Government to give effect to the provisions of the above-mentioned Bill since the said Bill remained pending in the Rajya Sabha after the adjournment of the 229<sup>th</sup> Session of the Rajya Sabha. However, on the 2<sup>nd</sup> October, 2013, a Cabinet Decision was taken and the said Ordinance has been withdrawn by the Government.

5. On November 27, 2013, the Union Law Minister *vide* his letter No.H.11019/7/2013/Leg.II addressed to the Secretary-General, Rajya Sabha (**Annexure-II**) has given notice of his intention to move for leave to withdraw the Representation of People (Amendment and Validation) Bill, 2013, during the ensuing Session of Parliament.

6. The Committee in its meeting held on the 5<sup>th</sup> December, 2013, considered the Notice given by the Minister of Law and Justice conveying his intention to withdraw the Representation of People (Second Amendment and Validation) Bill, 2013, in the forthcoming Session of Parliament.

**7. The Committee notes the fact that Government had withdrawn the Representation of People (Second Amendment and Validation) Ordinance, 2013. The said Ordinance is similar to the Bill referred to this Committee for examination and report. The Committee feels that as the said Ordinance and the Bill are dealing with the same subject and the Government has already withdrawn that Ordinance, it would now be appropriate for the Committee to agree to the Notice given by the Minister of Law and Justice to withdraw the Bill under consideration of the Committee.**

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