CHAPTER VII

ELECTION EXPENSES AND RETURNS IN UTTAR PRADESH.
Chapter VII

Election Expenses and Returns in Uttar Pradesh.

Amendments in the Law.

Some of the amendments made to the Representation of People Act, 1951, relating to returns were as follows:

(i) "A candidate is required to keep the accounts of the election expenses only in respect of elections to the House of People and the Legislative Assembly of a State, candidates for no other elections need keep such accounts.

(ii) The period for which the accounts are to be maintained has been limited to the interval between the date of publication of the notification calling the election and the date of declaration of the result thereof.

(iii) A candidate who has withdrawn his candidature or whose nomination papers have been rejected is no longer required to submit any account of election expenses.

(iv) Under the old law, a candidate had to make a declaration on Oath before a magistrate and file it along with the return of his election expenses. This declaration has been dispensed with.

(v) The qualification arising out of a candidate's failure to lodge a return within the time and in the manner prescribed by the law now attaches to the candidate only and not to his agent.

(vi) The period for which such disqualification subsists has been reduced from six years to three years.

(vii) Such disqualification entails disability only in respect of membership of Parliament and of the State Legislatures but no longer affects the candidates' right to vote.

(viii) Every such disqualification already incurred by any person before the 28th August, 1956, for failure to lodge a return of election expenses was removed by sub-section(i) of section 2 of the Representation of the People (Miscellaneous Provision) Act, 1956. The disqualification takes effect two months after the date by which the return of expenses out to have been lodged and lasts for five years unless removed earlier by the Election Commission.
(ix) The duty of maintaining a regular and separate account of all election expenses has been thrown primarily on the candidate himself. If he has an election agent, his agent may of course, maintain the account on behalf of the candidate.

(x) Only such expenditure as has been incurred or authorised by the candidate or his election agent during the period intervening between the date of the publication of the notification calling the election and the date of the declaration of the result thereof has to be entered in the account. The result is that no expense, however, large the account may be, which is incurred by a party organisation in furthering the prospects of a candidate supported by it is required to be entered in the account of the election expenses of the candidate so long as he can make out such expenses was not authorised by him or by his election agent.

(xi) It is no longer necessary to lodge the account of expenses in a prescribed form with the expenses classified under different heads. It is sufficient under the amended law if a true copy of the account kept by the candidate is lodged in the form in which it has been maintained by him.
(xii) The number of persons who may be employed by a candidate on payment in connection with the election was limited to 4 under the previous law. This restriction has now been removed.

Every contesting candidate at an election to the House of the People or to the Legislative Assembly of a State is required to keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or his election agent between the date of publication of the notification calling the election and the date of declaration of the result, both days inclusive. The account has to contain full particulars in respect of every item of expenditure and vouchers have to be obtained unless from the nature of the expenditure, such as postage, travel by rail and the like, it is not practicable to obtain a voucher. A true copy of this account along with the vouchers has to be lodged with the Returning Officer within 30 days from the date on which he declares the result of the election.

Particulars of accounts of election expenses.

(1) The account of election expenses to be kept by a candidate or his election agent under Section 77 shall contain the following particulars in respect of each item of expenditure from day to day, namely:

(a) the date on which the expenditure was incurred or authorized;
(b) the nature of the expenditure (as for example, travelling, postage or printing and the like);
(c) the amount of the expenditure -
   (i) the amount paid
   (ii) the amount outstanding;
(d) the date of payment;
(e) the name and address of the payee;
(f) the serial number of vouchers, in the case of amount paid;
(g) the serial number of bills, if any, in case of amount outstanding;
(h) the name and address of the person to whom the amount outstanding is payable.

(2) A voucher shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.

(3) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account under item(f) of sub-rule(1).

(4) It shall not be necessary to give the particulars mentioned in item(e) of sub-rule(1) in regard to items of expenditure for which vouchers have not been obtained.
under sub-rule(2).

The nature of the expenditure will vary with the varying methods of campaigning adopted by each candidate. The expenditure will generally comprise moneys spent on:

(i) motor vehicles used by a candidate and his agent or other helpers for canvassing;
(ii) holding of public meetings, particularly those with loud speaker arrangements;
(iii) public processions and display of banners;
(iv) paid canvassers and agents;
(v) payment of incidental expenses to voluntary helpers, including polling and counting agents;
(vi) printing and circulation of the election manifesto, pamphlets, posters, placards and similar forms of publicity;
(vii) personal canvassing on polling day, including the issue of identity slips to voters;
(viii) postage.

These items are only illustrative and should not be taken as exhaustive.

Expenses incurred by political parties on the electioneering campaign of individual candidates or groups of candidates are not required to be included in the candidate's election account.
Notice by *(District Election Officer)* for inspection of accounts.

The *(District Election Officer)* shall, within two days from the date on which the account of election expenses has been lodged by a candidate under Section 78, cause a notice to be affixed to his notice board, specifying —

(a) the date on which the account has been lodged;
(b) the name of the candidate;
(c) the time and place at which such account can be inspected.

Inspection of account and the obtaining of copies thereof.

Any person shall on payment of a fee of rupee one be entitled to inspect any such account and on payment of such fee as may be fixed by the Election Commission in this behalf be entitled to obtain attested copies of such account or of any part thereof.

Report by the *(District Election Officer)* as to the lodging of the account of election expenses and the decision of the Election Commission thereon.

(1) As soon as may be after the expiration of the time specified in Section 78 for the lodging of the

3. r.89, Ibid.

* Subs. by S.O. 3875 dated 15th December, 1966, for 'Returning Officer'.
accounts of election expenses at any election, the
(District Election Officer) shall report to the Election
Commission -

(a) the name of each contesting candidate;
(b) whether such candidate has lodged his account of
election expenses, and if so, the date on which
such account has been lodged; and
(c) whether in his opinion such account has been
lodged within the time and in the manner required
by the Act and these rules.

(2) Where the *(District Election Officer) is of the
opinion that the account of election expenses of any
candidate has not been lodged in the manner required by
the act and these rules, he shall with every such report
forward to the Election Commission the account of election
expenses of that candidate and the vouchers lodged along
with it.

(3) Immediately after the submission of the report
referred to in sub-rule(1) the *(District Election Officer)
shall publish a copy thereof by affixing the same to his
notice board.

(4) As soon as may be after the receipt of the report
referred to in sub-rule (1) the Election Commission shall

* Subs. by S.O. 3875, dated 15th December, 1966, for
'Returning Officer'.
consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and these rules.

Where the Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act and these rules, it shall by notice in writing call upon the candidates to show cause why he should not be disqualified under section 10A for the failure.

(6) Any contesting candidate who has been called upon to show cause under sub-rule (5) may within twenty days of the receipt of such notice submit in respect of the matter a representation in writing to the Election Commission, and shall at the same time send to the District Election Officer a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

(7) The District Election Officer shall, within five days of the receipt thereof, forward to the Election Commission the copy of the representation and the account (if any) with such comments as he wishes to make thereon.

* Subs. by S.O. 3875, dated 15th December, 1966, for 'Returning Officer'.
1. Subs. Ibid., for sub-rules (5) to (9).
(8) If, after considering the representation submitted by the candidate and the comments made by the District Election Officer and after such inquiry as it thinks fit, the Election Commission is satisfied that the candidate has no good reason or justification for the failure to lodge his account, it shall declare him to be disqualified under Section 10A for a period of three years from the date of the order, and cause the order to be published in the Official Gazette.

\[1\] Maximum election expenses.

The total of the expenditure of which account is to be kept under Section 77 and which is incurred or authorized in connection with an election in a State or Union territory mentioned in column 1 of the Table 26 below shall not exceed:

(a) in any one of a parliamentary constituency of that State or Union Territory, the amount specified in the corresponding column 2 of the said Table; and

(b) in any one of an assembly constituency, if any, of that State or Union Territory, the amount specified in the corresponding column 3 of the said Table.

<table>
<thead>
<tr>
<th>Name of State or Union Territory</th>
<th>Maximum limit of election expenses in any one of Parliamentary Constituency</th>
<th>Assembly Constituency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Andhra Pradesh</td>
<td>35,000</td>
<td>10,500</td>
</tr>
<tr>
<td>2. Assam</td>
<td>35,000</td>
<td>9,000</td>
</tr>
<tr>
<td>3. Bihar</td>
<td>35,000</td>
<td>12,000</td>
</tr>
<tr>
<td>4. Gujarat</td>
<td>35,000</td>
<td>10,000</td>
</tr>
<tr>
<td>5. Haryana</td>
<td>35,000</td>
<td>9,000</td>
</tr>
<tr>
<td>6. Jammu &amp; Kashmir</td>
<td>25,000</td>
<td>...</td>
</tr>
<tr>
<td>7. Kerala</td>
<td>35,000</td>
<td>10,500</td>
</tr>
<tr>
<td>8. Madhya Pradesh</td>
<td>35,000</td>
<td>10,000</td>
</tr>
<tr>
<td>9. Maharashtra</td>
<td>35,000</td>
<td>12,000</td>
</tr>
<tr>
<td>10. Mysore</td>
<td>35,000</td>
<td>10,000</td>
</tr>
<tr>
<td>11. Nagaland</td>
<td>15,000</td>
<td>2,500</td>
</tr>
<tr>
<td>12. Orissa</td>
<td>35,000</td>
<td>10,500</td>
</tr>
<tr>
<td>13. Punjab</td>
<td>35,000</td>
<td>10,000</td>
</tr>
<tr>
<td>14. Rajasthan</td>
<td>35,000</td>
<td>10,000</td>
</tr>
<tr>
<td>15. Tamil Nadu</td>
<td>35,000</td>
<td>12,000</td>
</tr>
<tr>
<td>16. Uttar Pradesh</td>
<td>35,000</td>
<td>13,500</td>
</tr>
<tr>
<td>17. West Bengal</td>
<td>35,000</td>
<td>10,500</td>
</tr>
<tr>
<td></td>
<td>UNION TERRITORIES</td>
<td>1</td>
</tr>
<tr>
<td>---</td>
<td>----------------------------------------</td>
<td>----</td>
</tr>
<tr>
<td>1</td>
<td>Andaman &amp; Nicobar Islands</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Chandigar</td>
<td>10,000</td>
</tr>
<tr>
<td>3</td>
<td>Dadra &amp; Nagar Haveli</td>
<td>6,000</td>
</tr>
<tr>
<td>4</td>
<td>Delhi</td>
<td>10,000</td>
</tr>
<tr>
<td>5</td>
<td>Goa, Daman &amp; Diu</td>
<td>12,500</td>
</tr>
<tr>
<td>6</td>
<td>Himachal Pradesh</td>
<td>15,000</td>
</tr>
<tr>
<td>7</td>
<td>Laccadive, Minicoy &amp; Amindivi Islands</td>
<td>12,500</td>
</tr>
<tr>
<td>8</td>
<td>Manipur</td>
<td>12,500</td>
</tr>
<tr>
<td>9</td>
<td>Pondicherry</td>
<td>12,500</td>
</tr>
<tr>
<td>10</td>
<td>Tripura</td>
<td>12,500</td>
</tr>
</tbody>
</table>

A candidate whose nominations have been rejected at scrutiny or who has withdrawn his candidature is not required to lodge an election account. But every contesting candidate, whether elected or not, must do so.

Considering the extent of the constituencies and the size of the electorate, it cannot be said that the maximum prescribed by law for election expenses is at all high. The electorate of a parliamentary constituency in a State now averages nearly 5 lakhs and the constituency often
extends over more than one administrative district. The electorate of an assembly constituency in the State of Uttar Pradesh, Bihar, Madras and Maharashtra ranges from 75,000 to over one lakh. In fact, the complaint is often heard that the candidates find it impossible to keep within the prescribed limit and still conduct any thing like an efficient election campaign in such large electorates. The Commission is of the view that the maximum limits for expenses fixed more than 15 years ago require to be raised.  

Since there were nearly 2,000 contesting candidates for the House of the People and more than 12,600 contesting candidates for the Legislative, the task involved in scrutinising the reports received from hundreds of Returning Officers and giving decisions on them was of some magnitude and laboriousness. It is regrettable that as many as 339 of the parliamentary candidates and 2,998 of the assembly candidates had to be disqualified for failure to comply with the law. Out of these, only 70 parliamentary candidates and 351 assembly candidates took the trouble of representing to the Commission for the removal of their disqualification before the prescribed period of three years had expired. 

The Commission accepted the explanation given in 285 cases and removed the disqualification. The others were apparently content to suffer the mild punishment imposed on them under the law.¹

After the experience of the General Elections of 1962, the Commission reiterates its view that the legal provision relating to election expenses as they stand at present are of no use and call for drastic amendments of total repeal. The general impression is that, wherever the elections are hotly contested, the really serious candidates have to, and do in fact spend much more than the prescribed maximum amount. It is only the unwary among them who leave loopholes in their accounts of election expenses and lay themselves open to election petitions. The fact that the expenses incurred by the political parties on the electioneering campaign of individual candidates or groups of candidates do not require to be included in the account of the latter, makes the prescribed maxima quite unreal and meaningless. The Commission came across an account of election expenses furnished by a candidate which consisted of a single entry, namely, the payment of a certain sum to the party sponsoring his candidature, and nothing more. It might be

that this was the only expenditure incurred or authorized by the candidate in connection with his election and as such, the account was arguably, at any rate, in accordance with the letter of the law, but certainly not in accordance with its spirit.¹

It has to be recognised that this insistence on all candidates maintaining and rendering proper accounts of their election expenses is, after all, only the means to an end, and not an end in itself. So also, the legal bar against candidates spending more than the prescribed amount has an object in view, that of discounting the unfair advantage which candidate with ample financial resources at their command would otherwise enjoy. Although it is agreed on all hands that the heavy expenditure now incurred by parties and candidates on their election campaign is most undesirable, it is not easy to find practical, effective and generally acceptable methods which would make them spend less.²

Although campaigning methods naturally vary from constituency to another and from one candidate to another, the principal items, on which parties and candidates, by and large, spend substantial amounts appear to be the following:³

2. Ibid.
3. Ibid, pp.94.
(i) motor vehicles used by candidates and their agents for canvassing during the electioneering period;

(ii) holding of large public meetings, particularly those with loudspeaker arrangements;

(iii) public processions and demonstrations;

(iv) display of streamers and banners;

(v) various forms of entertainments;

(vi) paid canvassers and agents;

(vii) payment of incidental expenses to voluntary helpers, including polling and counting agents;

(viii) posters, placards and similar forms of publicity;

(ix) election manifestoes and pamphlets; and

(x) personal canvassing on polling day, including the issue of identity slips to voters.

Suggestions are made from time to time by political parties as well as publicmen that restrictions should be imposed by law in respect of some of these items in such a manner that they are readily enforceable and that if this could be done, it would act as a curb on extravagant spending. There is, however, no unanimity in regard to the items to be chosen for imposing restrictions or in regard to the manner in which, and the extent to which, particular form of election propaganda should be controlled.  

There is no doubt that in many constituencies much money is spent on providing motor transport to workers who go round canvassing on behalf of a party or of a candidate. Not all the expenditure actually incurred by or on behalf of the candidate on this item is shown in his account.¹

Making arrangements for a well-attended election meeting is said to be an expensive affair, particularly if a number of sound amplifiers have to be provided at the meeting.

The same cannot be said of public processions and demonstrations in which election propaganda takes the low and un-intelligent form of shouting slogans and catch-words. The display of large sized streamers and banners, whether temporarily as part of such demonstrations or a little more permanently as a feature of the election landscape, is also in the same category.²

Candidates occasionally arrange for stage shows, music, dancing and similar forms of entertainment as an attraction to further their main purpose of canvassing and spend considerable sums on such entertainment. This practice, however, does not appear to be wide spread.³

² Ibid., pp.95, Govt. Pub.
³ Ibid.
Although the accounts of election expenses seldom show the employment of paid canvassers and the amounts paid to them, there is good reason to believe that the practice exists and that it adds appreciably to the candidates' expenses. Its potentiality for abuses of a more serious character like buying of votes cannot be ignored.

Every candidate has to get the assistance of a large number of volunteers to canvass for him and to work as polling agents or counting agents at the appropriate time. In many cases he has to give them small sums to cover their incidental daily expenses which may add up to a considerable amount as the total number of such agents and workers is fairly large.

It has been pointed out above that the existing law relating to account of election expenses suffers from two main defects:

1. The period of accounting is limited to the interval between the date of the notification calling the election and the date of the declaration of the result of the election. If the rendering of accounts by candidates and the prescription of a maximum limit for expenses are to have any significance, it is clear that candidates must be required to account for all expenses.

incurred on account of, or in respect of, the conduct or the management of the election, whether before, during or after the election.

(ii) The second main defect is that the expenditure incurred by political parties on particular candidates or groups of candidates sponsored by them does not require to be included in the accounts of any of the candidates. While organised political parties cannot be debarred from spending even during the election period on party propaganda generally, they must be made to account for any expenses incurred by them in promoting the election of particular candidates.

The failure to lodge the account in time and in the prescribed manner could result in the candidate being disqualified for being chosen, as and for being a member of, parliament or of any State Legislature. Before the amendment of the Act in 1966, the disqualification took effect only after the expiry of two months from the date on which the Commission decided that the candidate had defaulted and the disqualification was for a period of three years counting from the date by which the candidate ought to have lodged the account. The Commission, however, was empowered to reduce the period of disqualification if it is found sufficient reason to do so.¹

¹ Report on the Fourth General Elections of India, 1967, P.
The amending Act of 1966 revised the relevant section to read as follows:

"If the Election Commission is satisfied that a person—

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and

(b) has no good reason or jurisdiction for the failure, the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified for a period of three years from the date of order."

The procedural rules were also amended to accord with the new section. The reports furnished by the District Election Officers were scrutinised by the Commission and in any case where it found a default on the part of the candidate, a registered notice was issued to him to show cause within twenty days as to why he should not be disqualified. After considering the representation if any, submitted by the candidate, the Commission passed its final order either disqualifying him on the ground that he, not only failed to submit the account within time and/or in the prescribed manner but also had no good reason or justification for the failure or holding that the explanation offered was satisfactory and that he need

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not be disqualified. In the former case, the order declaring him to be disqualified was published in the Official Gazette.¹

The task involved in going through this involved and lengthy procedure was naturally massive and laborious. Not all the District Election Officers succeeded in sending over their reports to the Commission within a short period after the accounts had been lodged with them. In the Commission's office also the scrutiny of the reports and, in relevant cases of the accounts, sent with them took about six months. By December 25th 1967, notices were issued to 473 parliamentary candidates and 4,445 assembly candidates to show cause why they should not be disqualified, as they had prima-facie failed to lodge their accounts within the prescribed time and/or in the prescribed manner; and out of them, 154 parliamentary candidates and 1,214 assembly candidates were declared to be disqualified.²

The Commission took a liberal view of what constituted sufficient justification for a candidates failure to comply with the law in this respect. Inadvertence or ignorance of the legal provision was put forwarded as an excuse by quite a few erring candidates. Thus, the requirements that the candidate himself must lodge the accounts even when they were maintained by his election agent was not realised by

². Ibid, pp. 103, Govt. Pub.
³. Ibid, Govt. Publication.
some candidates. Some others, not noticing the change in law, had lodged their accounts with the Returning Officers instead of the District Election Officers. In such cases the Commission did not consider it necessary to penalise them on the principle that ignorance of the law is no excuse.\(^1\)

It was noticed that as in the past, many of the accounts which came up for scrutiny before the Commission were maintained in a slipshod fashion and hardly deserved to be recognised as a proper daily account. Some candidates who had failed to lodge the account came forward with the facile and obviously untrue explanation that they had spent nothing at all on their election and hence did not think it necessary to maintain or lodge an account. A few stated that apart from a certain sum given to the party they had spent nothing else on their electioneering campaign and they were not in a position to give details of the expenditure incurred by the party on their behalf.\(^2\)

**Financial Arrangements between the Centre and the Uttar Pradesh Government.**

The expenditure incurred on the preparation of electoral rolls and the conduct of elections is

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2. Ibid.
borne initially by the State Government, but the Central Government contributes one-half of all expenses incurred by the State Government on the following items: ¹

(i) election staff employed in the office of the Chief Electoral Officer and in the District Offices;

(ii) preparation and revision of electoral rolls;

(iii) storage and preservation of ballot boxes and other election materials; and

(iv) the conduct of elections to the House of the People and to the State Legislative Assembly when they are held simultaneously, including payment of allowances to government servants and others placed on election duty.

When the elections are not held simultaneously the Central Government bears the entire expenditure incurred in respect of elections to either House of Parliament and the State Government bears it in respect of elections to either House of the State Legislature. ²

The expenditure incurred on the Election Commission of India and its establishment, the Delimitation Commission and the Presidential and Vice-Presidential Elections is borne entirely by the Central Government. ³

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² Ibid.
³ Ibid, pp.120, Govt. Pub.
Until the recent amendment of the law making all election petitions triable by the High Courts, the expenditure on every election tribunal set up in a State by the Election Commission was initially borne by the Central Government. Where the tribunal was constituted solely for the trial of election petitions arising from elections to the State Legislature, the expenditure was recovered from the State Government at the end of each financial year. Where the tribunal was constituted solely for the trial of election petitions arising from elections to parliament, it was borne entirely by the Central Government. Where the same tribunal was constituted solely for the trial of both the types of election petitions, the total expenditure incurred on the tribunal was shared by the Central Government and the State Government the share of each being determined in proportion to the number of election petitions arising from elections respectively to Parliament and to the State Legislature.¹

The total expenditure incurred on the preparation and revision of the electoral rolls for the purposes of general elections held in 1967 was approximately Rs.354 lakhs and the expenditure incurred on the conduct of general elections was approximately Rs.741 lakhs as against the

The following Table-27 shows the expenditure in connection with the general elections including the preparation and printing of electoral rolls in Uttar Pradesh:

**TABLE - 27**

<table>
<thead>
<tr>
<th>Total Expenditure in Lakhs of Rupees</th>
<th>1962</th>
<th>1967</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uttar Pradesh</td>
<td>107.49</td>
<td>138.88</td>
</tr>
</tbody>
</table>

The total expenditure on election tribunals during the five year period 1st April 1962 to 31st March 1967 was Rs. 9,97,586, giving an average of Rs. 1,99,517 per year. The total expenditure on the Election Commission and the Delimitation Commission during the same five-year period came to Rs. 38,08,020 giving an average of Rs. 7,61,604 per year.

4. Ibid.