

ELECTION TO THE OFFICE OF PRESIDENT OF INDIA

Frequently Asked Questions

1. What are the Role and the Power of the President of India?

Answer: India has adopted the system of Parliamentary democracy, where in the powers of the Government are vested in the political office of the Prime Minister. The President of India holds the highest elective office in India. He is the head of state of the Republic of India and is the formal head of the Union legislature and executive and is also the Supreme Commander of the Indian Defence Forces. The President of India is the first citizen and represents the Indian nation and therefore does not belong to any particular party. The President of India, in consultation with the Council of Ministers, makes all major appointments under the Constitution-PM, Ministers, Chief Justice and judges of the Supreme Court and High Courts, CAG, Attorney General, Governors, Chief Election Commissioner and other members of the Election Commission of India etc. He has the powers to summon and prorogue the sessions of both Houses of Parliament and to dissolve the Lok Sabha. The powers to grant pardon and clemency vest in the President of India.

2. Who elects the President of India?

Answer: The President is elected by the representatives of the people through an Electoral College, which consists of the elected members

of both Houses of Parliament and the elected members of the Legislative Assemblies of the States including NCT of Delhi and the Union Territory of Puducherry.

3. What is the term of the office of the President?

Answer: The President shall hold office for a term of 5 years from the date on which he enters upon his office. He shall, however, continue to hold office notwithstanding the expiry of his term, until his successor enters upon his office.

4. When is the election of the Office of President of India held?

Answer: Under the provisions of sub-section (3) of section 4 of the Presidential and Vice-Presidential Elections Act, 1952, the notification under sub-section (1) of section 4 of the said Act calling the election can be issued by the Election Commission on or after the sixtieth day before the expiry of the term of office of the outgoing President. The election schedule shall be so fixed, that the President elect is able to enter upon his office on the day following the expiry of the term of the outgoing President.

5. What is the legal framework for the election to the Office of President of India?

Answer: Election to the Office of President of India is governed by the provisions contained in Articles 54 to 58 and 62 of the Constitution of India and the Presidential and Vice-Presidential Elections Act, 1952 and the Rules made thereunder.

6. Who conducts the election to the Office of President of India?

Answer: Under Article 324 of the Constitution of India, the authority to conduct elections to the Office of President is vested in the Election Commission of India.

7. What electoral system/process is adopted for the election to the office of the President?

Answer: As per Article 55(3) of the Constitution of India, the election of the President shall be held in accordance with the system of proportional representation by means of single transferable vote and the voting at such election shall be by secret ballot.

8. What are the Qualifications required by a candidate to contest the election to the Office of the President of India?

Answer: A candidate should satisfy the following requirements to contest the election to the Office of President: -

1. Must be a citizen of India.
2. Must have completed 35 years of age.
3. Must be eligible to be a member of the Lok Sabha.
4. Must 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-

Exceptions are the offices of President and Vice-President, Governor of any State and Ministers of Union or State.

9. Apart from the above what are the conditions to be fulfilled by a candidate for his nomination to be valid?

Answer: A nomination paper of a candidate for the election in the prescribed form (Form 2 appended to the Presidential and Vice-Presidential Elections Rules, 1974 Rules) has to be subscribed by at least **fifty** electors as proposers and at least **fifty** electors as seconders and has to be presented to the Returning Officer, between 11AM and 3PM on any day appointed for the purpose, either by the candidate himself or by any of his proposers or seconders.

The Security Deposit for the election of Rs.15000/- should also be deposited either in cash with the Returning Officer or a receipt showing that the amount has been deposited by the candidate or on his behalf in the Reserve Bank of India or in a Government Treasury should be furnished along with the nomination paper.

The candidate is also required to furnish a certified copy of the entry showing his name in the current electoral roll for the Parliamentary Constituency in which the candidate is registered as an elector.

10. Who is appointed the Returning Officer/Assistant Returning Officer for the election to the Office of President of India? Who makes such appointment?

Answer: By convention, the Secretary General, Lok Sabha or the Secretary General, Rajya Sabha is appointed as the Returning Officer, by rotation. Two other senior officers of the Lok Sabha/ Rajya Sabha Secretariat and the Secretaries and one more senior officer of Legislative Assemblies of all States including NCT of Delhi and the

Union Territory of Puducherry are also appointed as the Assistant Returning Officers. The Election Commission of India makes such appointments.

**11. Can a Candidate submit more than one nomination paper?
What would be the security deposit to be made by such candidate?**

Answer: Yes. A candidate can present by himself or in his behalf a maximum of four nomination papers. However, he is required to make only one security deposit in this regard.

12. Can an elector propose or second the nomination of more than one candidate at a Presidential election?

Answer: No. An elector can propose or second the name of only one candidate at a Presidential election. If he subscribes as proposer or seconder, the nomination papers of more than one candidate, his signature shall be deemed operative only on the nomination paper first delivered to the Returning Officer.

13. What are the grounds for rejection of the nomination of a candidate in the Presidential election?

Answer: A nomination paper may be rejected on the following grounds:-

1. On the date of scrutiny of nominations, the candidate is not eligible for election as President under the Constitution; or

2. if any of the proposers or seconders is not qualified to subscribe a nomination paper i.e. he is not an elector at the election; or
3. if it is not subscribed by the required number of proposers and/or seconders; or
4. if the signature of the candidate or any of the proposers or seconders is not genuine or has been obtained by fraud; or
5. if the nomination paper is not presented in person by the candidate or any of his proposers or seconders or if it is not delivered to the Returning Officer, within the hours and dates prescribed for the purpose or at the place appointed for the purpose, or the candidate has failed to make the required security deposit in the prescribed manner

However, a candidate's nomination shall not be rejected, if he has submitted another set of nomination papers, which are without any irregularity or defect. A candidate's nomination shall not be rejected on the ground of any defect that is not of substantial character.

14. What is the colour and form of ballot papers used in the election to the office of the President?

Answer: The Election Commission has directed that the ballot papers should be printed in 2 (two) colours- in **green** for use of Members of Parliament and in **pink** for use by the Members of the State Legislative Assemblies. The ballot papers are printed with two columns-first column containing the names of the candidates and the

second column for marking preferences by the elector for each such candidate. The ballot papers are printed in Hindi and English for use by MPs and in English and the official language(s) of the State for use by the MLAs of the State concerned.

15. Where is the election to the Office of President held?

Answer: A Room in the Parliament House in New Delhi and a room in all State Legislative Assembly Secretariats are generally fixed as places of poll.

16. Can the electors choose their place of voting?

Answer: Yes. While normally Members of Parliament vote in New Delhi and the members of the State Legislative Assemblies, including the members of the Legislative Assemblies of NCT of Delhi and UT of Puducherry vote at the place fixed in each State/UT capital, facilities are provided by the Election Commission for any MP to vote in the capital of his State and similarly an MLA may vote at the polling booth set up in the Parliament House, if he is in Delhi on the date of poll. However, the MP or MLA who opts to vote in a place other than the place where the member is designated to vote is required to intimate the same to the Commission well in advance (ten days) for making necessary arrangements. In exceptional circumstances, MLAs may be permitted by the Commission to vote at other State Capitals also.

17. How is the value of votes of members of the Electoral College calculated?

Answer: The value of votes of electors is basically determined on the basis of population of the States. The Constitution (Eighty fourth) Amendment Act, 2001 provides that until the population figures for the first census to be taken after the year 2026 have been published, the population of the States for the purposes of calculation of value of the votes for the Presidential Election shall mean the population as ascertained at the 1971 census. The value of the vote of each member of the Electoral College, who is a member of a State Legislative Assembly, is calculated by dividing the population of the State by the total number of elected members of the Assembly, and then to divide the quotient by 1000. Total Value of all members of each State Assembly is worked out by multiplying the number of elective seats in the Assembly by the number of votes for each member. The total value of votes of all the States added together is divided by the total number of elected members of Parliament (Lok Sabha 543+Rajya Sabha 233) to get the value of votes of each Member of Parliament. The statement of Value of Votes of MLAs & MPs as per Article 55(2) of the Constitution is given below*.(Appendix)

18. Is the value of vote of each elector the same?

Answer: No. The value of votes of MLAs differs from State to State. However, the value of the MPs is the same. Such value is determined on the basis of the population of the State as explained above.

19. What is the manner/procedure for recording votes at an election to the office of President?

Answer: In accordance with the system of proportional representation by means of single transferable vote, every elector can mark as many preferences, as there are candidates contesting the election. These preferences for the candidates are to be marked by the elector, by placing the figures 1,2,3, 4, 5 and so on, against the names of the candidates, in the order of preference, in the space provided in column 2 of the ballot paper. The preference can be indicated in international form of Indian numerals or in the form used in any Indian language or in Roman form but the preferences cannot be indicated in words like one, two, first preference second preference etc.

20. Are the provisions of the Anti-Defection Law applicable in Presidential elections?

Answer: No. Members of the Electoral College can vote according to their conscience and are not bound by any party whips. The voting is also by secret ballot.

21. Are Nominated Members of either Houses of Parliament or a State Legislative Assembly eligible to vote at the election to the Office of President?

Answer: No. Only elected members of both Houses of Parliament and of the State Legislative Assemblies are members of the Electoral College. Therefore nominated members cannot vote.

22. Can an elector at a Presidential election exercise his vote by proxy?

Answer: No.

23. Can a disabled or illiterate elector in a Presidential election take the help of a companion to record his vote?

Answer: No. Unlike in Parliamentary and Assembly election, an elector cannot take the help of a companion. He must take the assistance of the Presiding Officer to record his vote.

24. How can an elector who is under preventive detention during the period of Presidential election cast his vote?

Answer: An elector under preventive detention can cast his vote through postal ballot.

25. Is the winner in a Presidential election elected on the basis of obtaining simple majority? Or by securing a specified quota of votes?

Answer: As the Presidential election is held in accordance with the system of proportional representation by means of the single transferable vote, every elector has as many preferences as candidates contesting the elections. The winning candidate has to secure the required quota of votes to be declared elected, i.e., 50% of valid votes polled +1.

26. Is it compulsory for an elector at a Presidential election to mark his preference for all candidates?

Answer: No. Only the marking of first preference is compulsory for a ballot paper to be valid. Marking other preferences is optional.

27. What are the grounds for rejection of the ballot papers?

Answer: The Returning Officer shall reject a ballot paper as invalid on which:

1. The figure 1 is not marked; or
2. The figure 1 is marked against the name of more than one candidate or is marked in a manner which renders it doubtful as to which candidate it is intended to apply; or
3. The figure 1 and some other figure is marked against the name of the candidate; or
4. Any mark is made by which the elector may be identified.

A ballot paper will be invalidated if the preference is marked in words like one, two, three or first preference, second preference, third preference, etc instead of in figures 1, 2, 3 etc. A postal ballot may be rejected if the signature of the elector on the declaration and the attestation form received with the ballot paper is not duly attested by the authority specified in such form (who is normally the officer-in-charge of the jail or the place of detention).

28. What is the procedure of counting in a Presidential election? How is the quota of votes to be secured by the winning candidate determined?

Answer: After the valid ballot papers are segregated from the invalid ones, the valid ballot papers are distributed among the contesting candidates on the basis of first preference marked on each of them for those candidates. The value of votes which each contesting candidate gets in this process is ascertained by multiplying the number of ballot papers on which the first preference is marked for him, by the value of vote which each ballot paper of a member (MP or MLA) represents. The total votes secured by each contesting candidate are then ascertained by adding together the value of votes secured by him from the Members of Parliament and the Members of the State Legislative Assemblies. This is the first round of counting.

For ascertaining the quota sufficient to secure the return of a candidate, the value of votes credited to each contesting candidate in the first round of counting is added up to determine the total value of valid votes polled at the election. Such total value of valid votes is then divided by two, and one is added to the quotient so obtained, ignoring the remainder, if any. The number so determined, is the quota, which a candidate should secure to be declared elected.

If the total value of the votes credited to any candidate at the first count, is equal to, or greater than the quota sufficient to secure the return of a candidate, he is declared elected by the Returning Officer. If however, after the first round of counting, no candidate secures the

requisite quota, then the counting proceeds on the basis of a process of elimination and exclusion, whereby the candidate credited with the lowest number of votes is excluded and all his ballot papers are distributed among the remaining (continuing) candidates on the basis of the second preferences marked thereon. The value of such transferred ballot papers will be the same as the value at which the excluded candidate received them. The ballot papers on which second preference is not marked is treated as exhausted ballot papers and shall not be further counted, even if the third or subsequent preferences are marked thereon. If no candidate secures the requisite quota, then the process of counting will continue on the same basis of elimination and exclusion, till a candidate secures the required quota of votes. In case, even after the exclusion of the candidates receiving the lowest number of votes, no candidate secures the requisite quota and ultimately one candidate remains as the lone continuing candidate, he is declared elected even if he has failed to secure the quota sufficient to secure the return of a candidate.

29. Where is the counting of votes in a Presidential election held?

Answer: The counting of votes is done in the office of the Returning officer at New Delhi.

30. When is the security deposit of a candidate in a Presidential Election forfeited?

Answer: The Security 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 return of a

candidate at such election. In other cases, the deposit will be returned to the candidate.

31. Can the result of the election to the Office of President be challenged? If so, what is the proper procedure for doing so?

Answer: Yes. An election to the Office of the President can be called in question by means of an election petition presented to the Supreme Court. Such election petition should be presented by a candidate or twenty or more electors joined together, and may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under Section 12 (of the Presidential and Vice-Presidential Elections Act, 1952), but not later than 30 days from the date of such publication. Subject to these provisions, the Supreme Court, under Article 145 of the Constitution, may regulate the form, manner and the procedures connected with such election petitions.

APPENDIX-I

PRESIDENTIAL ELECTION, 2012

**STATEMENT OF VALUE OF VOTES OF ELECTED MEMBERS
OF THE STATE LEGISLATIVE ASSEMBLIES AND
BOTH HOUSES OF PARLIAMENT AS PER
PROVISIONS OF ARTICLE 55(2) OF THE CONSTITUTION OF INDIA**

SL. No.	NAME OF STATE	NUMBER OF ASSEMBLY SEATS (ELECTIVE)	POPULATION (1971 CENSUS)	VALUE OF VOTE OF EACH M.L.A.	TOTAL VALUE OF VOTES FOR THE STATE
(1)	(2)	(3)	(4)	(5)	(6)
1.	ANDHRA PRADESH	294	43502708	148	148 X 294 = 43512
2.	ARUNACHAL PRADESH	60	467511	8	008 X 060 = 480
3.	ASSAM	126	14625152	116	116 X 126 = 14616
4.	BIHAR	243	42126236	173	173 X 243 = 42039
5.	CHHATTISGARH	90	11637494	129	129 X 090 = 11610
6.	GOA	40	795120	20	020 X 040 = 800
7.	GUJARAT	182	26697475	147	147 X 182 = 26754
8.	HARYANA	90	10036808	112	112 X 090 = 10080
9.	HIMACHAL PRADESH	68	3460434	51	051 X 068 = 3468
10.	JAMMU & KASHMIR*	87	6300000	72	072 X 087 = 6264
11.	JHARKHAND	81	14227133	176	176 X 081 = 14256
12.	KARNATAKA	224	29299014	131	131 X 224 = 29344
13.	KERALA	140	21347375	152	152 X 140 = 21280
14.	MADHYA PRADESH	230	30016625	131	131 X 230 = 30130
15.	MAHARASHTRA	288	50412235	175	175 X 288 = 50400
16.	MANIPUR	60	1072753	18	018 X 060 = 1080
17.	MEGHALAYA	60	1011699	17	017 X 060 = 1020
18.	MIZORAM	40	332390	8	008 X 040 = 320
19.	NAGALAND	60	516449	9	009 X 060 = 540
20.	ODISHA	147	21944615	149	149 X 147 = 21903
21.	PUNJAB	117	13551060	116	116 X 117 = 13572
22.	RAJASTHAN	200	25765806	129	129 X 200 = 25800
23.	SIKKIM	32	209843	7	007 X 032 = 224
24.	TAMIL NADU	234	41199168	176	176 X 234 = 41184
25.	TRIPURA	60	1556342	26	026 X 060 = 1560
26.	UTTARAKHAND	70	4491239	64	064 X 070 = 4480
27.	UTTAR PRADESH	403	83849905	208	208 X 403 = 83824
28.	WEST BENGAL	294	44312011	151	151 X 294 = 44394
29.	NCT OF DELHI	70	4065698	58	058 X 070 = 4060
30.	PUDUCHERRY	30	471707	16	016 X 030 = 480
	TOTAL	4120	549302005		= 549474

* Constitution (Application to the Jammu & Kashmir) Order

(A) VALUE OF EACH VOTE OF MEMBERS OF PARLIAMENT

TOTAL MEMBERS

LOK SABHA (543) + RAJYA SABHA (233) = 776

$$\text{VALUE OF EACH VOTE} = \frac{549474}{776} = 708$$

**(B) TOTAL VALUE OF VOTES OF
776 MEMBERS OF PARLIAMENT = 708 X 776 = 549408**

**(C) TOTAL ELECTORS FOR THE
PRESIDENTIAL ELECTION = MLAs (4120) + M.Ps (776) = 4896**

**(D) TOTAL VALUE OF 4896 ELECTORS FOR
THE PRESIDENTIAL ELECTION 2012 = 549474 + 549408 = 1098882**