

Gujarat Rajya Sabha Election

Why in news?

\n\n

Two votes cast in Gujarat Rajya Sabha election were invalidated, when two electors cast their ballots and showed it.

\n\n

What is the ground for invalidation?

\n\n

∖n

• As per the Conduct of Election Rules 1961, Rajya Sabha elections calls for a ballot-in-secret.

∖n

- Rule 39A mandates that the elector cannot declare his/her ballot to anyone. \slashn
- Any deviation in this results in the invalidation of the ballot by the presiding officer.

∖n

\n\n

How can secret voting be achieved?

\n\n

∖n

- Secrecy aims to protect the vote as it affords the right to the voter to keep silent over the choice of candidate. \n
- This is achieved by two means The duty-based measure and the rightsbased measure.

\n

• The rights-based measure provides the voter the right to keep his/her vote secret.

\n

- According to this, election authorities should provide voting facilities that do not disclose the vote. But the voter can choose not to opt for secrecy. \n

- The duty-based measure imposes secrecy as a statutory duty not only on the election authorities but also on the voter.
- The voter even by his/her consent cannot declare his/her choice; doing so would invalidate his/her vote.
- Rule 39A creates secrecy in the nature of a duty-based measure. $\ensuremath{\sc n}$

\n\n

What are the flaws in this system?

\n\n

\n

• It is argued that the voter should not be given an option to declare his/her vote because the flexibility would allow others to pressure the voter informally into declaring his/her choice.

∖n

- In reality, Rule 39AA of the Conduct of Election Rules defeats this purpose. $\slash n$
- Rule 39AA mandates that an elector belonging to a political party must declare his vote to the party agent, if the political party has issued a whip regarding the vote.
- Refusing to do so is a violation of the election procedure and the vote stands invalidated.

\n

- It allows for internal voter intimidation by parties. \slashn
- Also, Rule 39A applies only while the election process is underway. $\slash n$
- It does not prohibit a voter from declaring his/her vote after the process is completed.
 - \n

\n

- It cannot control the behaviour of the elector outside the ballot box. $\space{\space{1.5}n}$
- Therefore, the scheme of duty-based secrecy fails.

\n\n

What should be done?

\n\n

\n

• Universal declaration could ease the political pressure that an elector might face.

\n

\n\n

∖n

- Ballot secrecy should be guided by the idea of "consent" or "choice"; the means to adopt should be the rights-based measure. \n

\n\n

\n\n

Source: The Indian Express



