



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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THE MISSING QUALIFICATION FOR LEGISLATORS: THE ABSENCE OF EDUCATIONAL CRITERIA FOR CANDIDATES IN INDIA

AUTHORED BY - Z ZEENATH FARZU

Nehru Academy of Law, University of Calicut, Kerala

Abstract

The Constitution of India prescribes age, citizenship, and voter-registration requirements for candidates seeking to enter Parliament and State Legislatures, but conspicuously omits any minimum educational qualification a criterion that governs entry into the judiciary and the civil-services-recruited executive. This asymmetry is not accidental; it reflects a deliberate constitutional choice made in the early 1950s to keep the legislature accessible to a largely non-literate electorate and to the freedom fighters who built the Republic. This article examines why that choice was made, tests it against the one Indian precedent that has upheld educational qualifications for elected office *Rajbala v. State of Haryana* and against Pakistan's short-lived 2002 experiment with a national-level degree requirement. It argues that while the doctrinal case for permitting such a bar is now well established, the empirical case against extending it to Parliament and the State Assemblies remains stronger: an educational floor functions less as a filter for competence than as a filter for caste, gender, and rural disadvantage. The article concludes by proposing a middle path civic-literacy and disclosure-based reforms that addresses the legitimate concern about legislative competence without disenfranchising the very electorate the Constitution was written to include.

I. Introduction

Article 233 of the Constitution requires a District Judge to hold a law degree and a minimum period of practice at the Bar. Entry into the Indian Administrative Service, the Indian Police Service, and every other constituent of the higher civil service is contingent on a university degree as a threshold eligibility condition for the Union Public Service Commission examination. Yet a person who cannot read or write may, subject only to age, citizenship, and voter-registration criteria, stand for election to the Lok Sabha, sit in the Union Cabinet, and administer ministries with combined budgets running into lakhs of crores of rupees. This is not

a hypothetical it is the literal operation of Articles 84 and 173 of the Constitution.

The disparity invites an obvious question, one that recurs in public discourse in each election cycle. If the judiciary and the executive both demand a threshold of formal education from the individuals who staff them, why does the legislature the branch that makes the laws while the other two interpret and enforce demand none? This article argues that the answer lies not in constitutional oversight but in a considered and historically specific choice, and that revisiting that choice today raises a genuine tension between two constitutional values that both matter in the competence in governance, and the inclusiveness of representative democracy. Part II maps the existing qualification framework. Part III recovers the historical reasoning behind the framework's silence on education. Part IV examines the one Indian judgment that has tested an educational bar against Article 14. Part V turns to comparative experience, principally Pakistan's abortive 2002 reform. Parts VI and VII weigh the arguments for and against extending such a bar to Parliament and State Assemblies. Part VIII proposes an alternative reform path, and Part IX concludes.

II. The Constitutional and Statutory Framework: Qualifications, Not Disqualifications

Indian election law draws a structural distinction between a *qualification* a positive condition that must be satisfied to hold office and a ¹*disqualification* a negative bar that operates despite an otherwise qualified candidate. Article 84 lays down the qualifications for Member of Parliament such as: Indian citizenship, a minimum age (twenty-five for the Lok Sabha, thirty for the Rajya Sabha), and such other qualifications as Parliament may by law prescribe. Article 173 does the same for State Legislatures. Articles 102 and 191 separately list disqualifications holding an office of profit, unsoundness of mind, insolvency, defective citizenship, and disqualification under any law made by Parliament, principally the Representation of the People Act, 1951.

Section 8 of the Representation of the People Act, 1951 disqualifies candidates convicted of specified offences. A separate line of Supreme Court authority has added disclosure obligations without touching eligibility itself. In *Union of India v. Association for Democratic Reforms*,

¹See Articles 84, 102, 173 and 191 of the Constitution of India; Representation of the People Act, 1951; the Election Commission has consistently maintained that qualifications and disqualifications are analytically distinct categories under the constitutional scheme.

the Court held that voters have a right, flowing from Article 19(1)(a), to know a candidate's criminal antecedents, assets and liabilities, and educational qualifications before casting their vote, and directed the Election Commission to secure such disclosure through candidate affidavits.² But disclosure is not disqualification: the judgment itself observed that even an illiterate voter, properly informed, remains free to decide for themselves whether a candidate's educational qualification matters. Neither the Constitution nor the RP Act conditions eligibility for Parliament or a State Assembly on any minimum level of education; a candidate must merely disclose what education, if any, they possess, leaving voters to weigh its relevance. The doctrinal position, then, was unambiguous at the level of the Union and the State Legislatures. India runs an education-blind candidacy regime, softened only by a disclosure obligation.

III. Why the Constitution Is Silent: A Deliberate Omission and Not Accidental

The silence in Articles 84 and 173 was not an oversight. When Parliament came to prescribe qualifications for Members in the early 1950s, it considered and rejected the idea of an educational threshold. The reasoning offered at the time was pragmatic and historically grounded. A minimum-education bar, in a country where literacy was still the exception rather than the rule, would have excluded the vast illiterate majority of the electorate from ever contesting and significantly, it would have excluded a number of the freedom fighters who had left school and college benches to join the independence movement and who now sat, or aspired to sit, in the legislatures of the Republic they had helped create.

This reasoning reflects a specific constitutional choice about what representative government is for. A legislature is not merely an administrative body executing pre-set policy, unlike the civil service, nor is it an interpretive body applying settled law to facts, like a court. It is meant to be a mirror of the sovereign people, and if the people themselves are substantially non-literate, a legislature confined to the literate ceases to represent them in the constitutionally intended sense. The National Commission to Review the Working of the Constitution and successive Law Commission reports on electoral reform most substantially the 244th and 255th Reports have focused overwhelmingly on criminalisation of politics, false affidavits, and campaign finance, and have not recommended an educational bar for Parliament or State Assemblies.³ That silence, sustained across seven decades of reform discourse. This is itself

²Union of India v. Association for Democratic Reforms, (2002) 5 SCC 294, decided 2 May 2002 (Civil Appeal No. 7178 of 2001, with Writ Petition (C) No. 294 of 2001).

³Law Commission of India, Report No. 244, Electoral Disqualifications (24 February 2014); Law Commission of

evidence that the omission is considered rather than carelessness.

IV. Rajbala v. State of Haryana: The Precedent That Says It Can Be Done

The one significant departure from this education-blind framework occurred not at the level of Parliament or a State Assembly, but at the level of local self-government. In *Rajbala v. State of Haryana*, decided by the Supreme Court in December 2015,⁴ the Court considered a challenge to the Haryana Panchayati Raj (Amendment) Act, 2015, which introduced five fresh disqualifications for candidates to Panchayat bodies, including a minimum educational qualification and the requirement of a functional toilet at the candidate's residence. The petitioners, who did not meet the new educational threshold, argued that the amendment violated Article 14 by creating an unreasonable and arbitrary classification among citizens otherwise equally entitled to contest local elections.

The Court dismissed the challenge. It held that the right to contest an election is not a fundamental right under Part III but a right created by statute and is therefore fully subject to whatever reasonable qualifications a competent legislature chooses to impose under Article 243-F, which empowers State Legislatures to prescribe disqualifications for Panchayat elections. On the merits of Article 14, the Court reasoned that education equips a person to distinguish between right and wrong conduct, and that a minimum educational threshold accordingly bears a rational nexus with the object of securing competent Panchayat administration.

Rajbala therefore stands for a limited but important proposition as such educational qualifications for elected office are not per se unconstitutional in India. Extended beyond its facts, the judgment supplies the doctrinal foundation on which a Parliament-level or Assembly-level educational qualification could, in principle, be built, since the reasoning about the rational connection between education and competent governance is not obviously confined to the Panchayat context.

But the judgment has drawn sustained academic criticism precisely on the ground that its

India, Report No. 255, Electoral Reforms (March 2015). Both reports, prepared following the Supreme Court's directions in *Public Interest Foundation v. Union of India*, concentrate on decriminalisation and disclosure rather than educational eligibility.

⁴*Rajbala v. State of Haryana*, (2016) 1 SCC 463, decided 10 December 2015, Writ Petition (Civil) No. 671 of 2015 (Chelameswar and Sapre, JJ.).

reasoning was empirically thin. Commentators have pointed to government data suggesting that the new criteria would disqualify a disproportionate share of women and Scheduled Caste residents of rural Haryana from contesting, because literacy in India correlates strongly with caste, gender, and rural residence, so an ostensibly neutral educational bar operates, in practice, as an indirect filter along those very lines. The Court did not engage with this data in any depth, nor did it attempt to define what level or kind of education is actually necessary to discharge the duties of a Panchayat member, leaving the rational nexus finding largely conclusory.⁵

Rajasthan had enacted a near-identical amendment shortly before Haryana, and the pattern there makes the equity objection concrete rather than speculative. Civil society organisations opposing the Rajasthan ordinance stated publicly that the new qualification would exclude roughly eighty per cent of women and tribal candidates in the state from contesting Panchayat elections at all.⁶ Whatever the precise figure, the direction of the effect is not contested even by the law's supporters: an educational floor calibrated to national or urban literacy norms falls unevenly on exactly the constituencies universal suffrage was designed to enfranchise.

V. The Comparative Picture: Pakistan's Cautionary Experiment

India is not the first democracy to test this idea, and its neighbour offers the clearest cautionary tale. In 2002, the Musharraf led administration in Pakistan introduced a requirement that candidates for the National Assembly hold at least a bachelor's degree.⁷ The consequences were immediate and severe: sixty of the two hundred and seven sitting National Assembly members from the previous house were rendered ineligible to recontest, amounting to roughly twenty-nine per cent of incumbents.⁸ Afzal's empirical study, published in the peer-reviewed journal *Public Choice*, found that political competition measured by the number of candidates

⁵Constitutional Equity: Ruling in *Rajbala v. State of Haryana*, *Christ University Law Journal*, Vol. 7, No. 2 (2018) 83-95, critiquing the Rajbala bench's treatment of the Haryana Panchayati Raj (Amendment) Act's disqualifications against the objectives of the 73rd and 74th Constitutional Amendments without engaging the disparate-impact data placed before it; see also *Economic & Political Weekly*, Vol. 51, Issue 40 (2016), 'Judgment of Supreme Court in *Rajbala v. State of Haryana*: Damage to Democracy'.

⁶Jhuma Sen, 'Equality Interrupted: The Rajasthan Panchayati Raj Act, 2nd Amendment, Ordinance, 2014 and the Selective Disqualification of Candidates', *Oxford Human Rights Hub* (5 January 2015), citing statements by the People's Union for Civil Liberties (PUCI) on the exclusion of an estimated eighty per cent of women and tribal candidates; the Rajasthan law was itself separately challenged before the Rajasthan High Court in *Dulari Devi v. State of Rajasthan*, D.B. Civil Writ Petition No. 375 of 2015.

⁷The requirement was introduced through the Conduct of General Elections Order, 2002, and applied to the 2002 general election for the National Assembly of Pakistan.

⁸Madiha Afzal, 'Do Barriers to Candidacy Reduce Political Competition? Evidence from a Bachelor's Degree Requirement for Legislators in Pakistan', *Public Choice*, Vol. 161, No. 1-2 (2014), 51-72. The requirement was codified in Section 8A of the Conduct of General Elections Order, 2002 and Section 99(1)(c) of the Representation of the People Act, 1976 (Pakistan).

contesting and the concentration of vote shares declined significantly in constituencies where the disqualified incumbent had belonged to a smaller party or where local literacy was lower, precisely because fewer qualified substitutes were available to replace them.

The Election Commission's attempt to soften the rule by recognising religious seminary degrees as equivalent to a bachelor's degree only generated further controversy, since it introduced an arbitrary equivalence between vastly different curricula and invited allegations that the rule was being manipulated to favour some candidates over others.⁹ The requirement was formally repealed in 2009, with retrospective effect from April 2008, restoring the pre-2002 position.

Pakistan's experience is instructive precisely because it shows the mechanism through which an educational bar operates in a country with uneven literacy: it does not screen for the best-qualified candidates among a broad field, it collapses the field itself, and it does so unevenly, along lines that track existing social and economic disadvantage rather than any measure of political judgment or integrity.

Beyond Pakistan, comparative practice more broadly cuts against the instinct that education is a common or obvious threshold for candidacy. Most established democracies condition candidacy on citizenship, residency, and a minimum age, but do not impose a minimum education requirement for national legislative office. The global norm, in other words, treats age and residency as legitimate proxies for readiness to hold office, and treats formal education as a matter for the electorate to weigh rather than a statutory precondition.

VI. The Case for an Educational Floor

The argument in favour of some minimum educational threshold for legislative candidates rests on an institutional-competence claim, and it should not be dismissed as merely selective. A legislator scrutinises budgets, debates and votes on complex fiscal, technological, and international legal instruments, and sits on Standing Committees that require the ability to read detailed reports and cross-examine expert witnesses. The asymmetry between the judiciary and executive on one hand, and the legislature on the other, is real: a District Judge cannot function

⁹Saad Rasool, 'Distilling Eligibility and Virtue: Articles 62 and 63 of the Pakistani Constitution', LUMS Law Journal, discussing the madrasa-degree equivalence controversy and the eventual repeal of the requirement, with effect from 21 April 2008, through the Election Laws (Amendment) Act, 2009.

without formal legal training, and a Joint Secretary cannot be recruited without a university degree, yet the Member of Parliament to whom both are ultimately answerable through the machinery of ministerial responsibility needs possess neither.

Proponents also point to the practical demands of local administration specifically, where Rajbala's reasoning has the most force: a Sarpanch or Panchayat member directly handles budgets, tax collection, and welfare-scheme implementation under Articles 243-G and 243-H, and illiteracy can make a member functionally dependent on subordinate staff or party functionaries to discharge even routine responsibilities, creating a governance gap that a modest literacy threshold could close.

VII. The Case Against: Equity, Representation, and the Meaning of Merit

The case against extending an educational bar to Parliament and State Assemblies is, on balance, the stronger one, for three connected reasons.

First, the empirical objection raised in the Rajbala literature is not confined to Haryana. Literacy in India remains unevenly distributed by caste, gender, and rural-urban geography; a formally neutral educational qualification will, as a matter of statistical fact rather than intention, disqualify a far higher proportion of Scheduled Caste, Scheduled Tribe, and women candidates than upper-caste urban male candidates. An educational bar dressed as a competence filter therefore risks operating as a covert class and identity filter, reproducing precisely the exclusions the Constitution's reservation and universal-suffrage provisions were designed to dismantle.¹⁰

Second, the constituent choice recorded in Part III was not merely a concession to illiteracy; it reflected a considered judgment that formal education is not the same thing as political judgment, integrity, or the capacity to represent constituents' interests. Some of India's most consequential political leaders, including several who shaped the Constitution's own foundational commitments, had limited formal education. As the Supreme Court itself recognised in *Association for Democratic Reforms*, it is for the voter, not the statute, to weigh the relevance of a candidate's educational background against their record and character a principle that supports disclosure over disqualification as the appropriate constitutional

¹⁰Jhuma Sen, *supra* note 6, discussing comparable disparate-impact patterns under Rajasthan's parallel panchayat-level legislation.

response to the competence concern.

Third, an educational bar at the national or state level would sit uneasily with universal adult suffrage itself. If every citizen above the qualifying age has an equal vote regardless of education, it is difficult to justify a rule under which only the literate minority may be voted for. The right to vote and the right to contest are not identical, as Rajbala itself holds, but a democracy that steadily widens the electorate while narrowing the field of who may represent it risks a structural mismatch between who chooses and who may be chosen a mismatch most acute exactly where literacy gaps are largest, which is to say in precisely the constituencies most in need of engaged representation.

VIII. A Middle Path: What Reform Could Look Like

The choice need not be binary between the status quo and a hard educational bar. Three intermediate reforms would address the legitimate competence concern raised in Part VI without reproducing Pakistan's exclusionary effect or the equity problems identified in Part VII.

First, strengthen disclosure rather than impose disqualification: expand Form 26 to require more granular, verifiable educational information, with meaningful penalties for false declarations, so that voters can exercise the choice the courts say belongs to them, on the basis of accurate information rather than the largely unverified claims candidates presently disclose. Second, introduce mandatory post-election civic and constitutional literacy orientation for all newly elected legislators, administered by an independent body such as the Election Commission or a Parliamentary training institute, rather than a pre-candidacy academic filter. This targets the actual governance competence concern directly, without excluding anyone from standing for election in the first place.

Third, where a genuine case exists for a minimum threshold at the local self-government level given the direct financial and administrative duties Panchayat and municipal members discharge, any such requirement should be coupled with free, State-funded functional-literacy and Panchayat-administration courses in the years preceding local elections, so the qualification operates as a floor the State helps every citizen reach, rather than a bar that simply excludes those already excluded from earlier opportunities.

IX. Conclusion: Is It Time?

The absence of an educational qualification for legislative candidates in India is neither a constitutional accident nor a straightforward failure of design. It is the surviving trace of a founding-era judgment that representative government must first be representative, and that formal education, however useful, is not a reliable proxy for the political judgment, integrity, or connection to constituents that effective representation actually requires. *Rajbala v. State of Haryana* shows that the courts are willing to accept an educational qualification when a legislature chooses to impose one, but it also shows, through the criticism it has attracted, exactly what such a rule costs in practice. Pakistan's 2002 experiment shows what that cost looks like at national scale.

It is not yet time to import an educational bar into Articles 84 and 173. The disparity between the judiciary, the executive, and the legislature on this point is real, but it does not follow that the legislature is the outlier that must be corrected; it may instead be the branch of government that has, since the Constitution's earliest years, correctly understood that competence in a representative institution cannot be manufactured by a degree requirement, and must instead be built through the harder, slower work of civic education, transparent disclosure, and an electorate empowered to judge its representatives on the fullest possible information. However, educated legislators need educated voters. When the disparity in civic literacy rate reduces the country might have educated legislators by default without any need for statutory mandate.

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