

NOTA: A Voters Right To Reject

Dr. Ashok. S. Anikivi

*M. A., Ph. D, HOD, Deptt. of Political Science KLE Society's
Lingraj College, Belagavi,(Autonomous), Karnataka.*

Abstract

India is the biggest Democracy in the world but due to certain reasons, democracy is not working properly. But today electoral reforms have occupied a prominent place in Indian politics.

The purpose of NOTA was to allow the voters to exercise their right to vote without being compelled to select a particular candidate without any alternative options being available. The voters who do not want to vote for any candidates can exercise this power in secrecy.

The EVMS have the NOTA option at the end of the candidates list. Initially, in order to cast a negative ballot, a voter had to inform the presiding officer at the polling booth. At present a NOTA vote does not require the involvement of the presiding officer.

“Right to Reject” is a provision that empowers the voters to have an option to reject the candidate contesting election. Using this provision the voter can select a button during voting that says “None of the above”(NOTA) and can reject all the candidates in case she/he does not believe in a candidate. The right to reject relies on the concept that in a democracy if the citizen have the right to select the candidates, than they should also have the right to reject the candidates.

Undoubtedly NOTA will help in increasing the voter turnout and hence make elections more participatory exercise.

Key Words : 1.NOTA 2.Electoral Reforms 3.Nuetral Voting
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I. Introduction:

India is the biggest Democracy in the world but due to certain reasons, democracy is not working properly. So, most of the scholars are of the opinion that why this biggest democracy is not working properly. There is something wrong in the electoral process.

The need for electoral reforms is being felt from time to time in order to ensure free and fair poll. During the process of holding elections and for that matter the voters who also experience certain difficulties come out with suggestions to modify the existing Acts and Rules governing elections, be it of Parliament, Assembly, Panchayat Raj bodies or Urban Local bodies. That is how election law goes on changing from time to time.

But today electoral reforms have occupied a prominent place in Indian politics. So many Commissions have been appointed and reforms were suggested and laws were reviewed to make further improvement. Electoral reforms means introducing fair electoral system for conducting fair elections. It also includes recuperation of the existing systems to enhance and increases the efficiency of the same.

The purpose of NOTA was to allow the voters to exercise their right to vote without being compelled to select a particular candidate without any alternative options being available. The voters who do not want to vote for any candidates can exercise this power in secrecy. Accordingly the Election Commission of India wrote a letter to the Prime Minister of India in July 2004, regarding the proposed electoral reforms. In that proposal it stated about the Negative/Neutral voting. "The commission has received proposals from a very large number of individuals and organizations that there should be a provision enabling a voter to reject all the candidates in the constituency if he does not find them suitable. In the voting using the conventional ballot paper and ballot boxes, an elector can drop the ballot paper without making his vote against any of the candidates if he chooses so. However, in the voting using the Electronic Voting Machines, such a facility is not available to the voter.

Although, Rule 490 of the conduct of Election Rules, 1961 provides that an elector may refuse to vote after he has been identified and necessary retries made in the Register of Electors and the marked copy of the electoral roll, the secrecy of voting is not protected here as much as the polling officials and the polling agents in the polling station get to know about the decision of such a voter."¹

The Commission recommends that the law should be amended to specifically provide for negative/Neutral voting. For this purpose, Rule 22 and 493 of the conduct of Election Rules, 1961 may be suitably amended adding a proviso that in the ballot paper and the particulars on the ballot unit, in the column relating to names of

candidates, after the entry relating to the last candidate, there shall be a column “None of the above”, to enable a voter to reject all the candidates, if he chooses so. Such a proposal was earlier made by the Commission in 2001 (Vide letter dated 10-12-2001).

II. History of ‘NOTA’

The concept of NOTA came into existence in 1976. When the Isla Vista Municipal country of Santa Barbara, California in the USA. Further, the ‘None of the above’ (NOTA) option was introduced for the first time, in 1978, in a ballot by the state of Nevada. In California, a total of \$987,000 was spent in promoting this ballot option but it was not succeeded in the March 2000 general election. This new ballot option would have been declared as a new voting system for all elective offices of US State and Federal governments, if voters would have passed it. The Ukraine, Spain and Columbia have also introduced this system. Russia had such an option on its ballots until it was abolished in 2006². Bangladesh introduced this option in 2008.³ Pakistan introduced this option on ballot papers for the 2013, but later the Election commission of Pakistan rejected this.⁴

III. How is a Nota Vote cast?

The EVMS have the NOTA option at the end of the candidates list. Initially, in order to cast a negative ballot, a voter had to inform the presiding officer at the polling booth. At present a NOTA vote does not require the involvement of the presiding officer.

IV. Who Introduced NOTA in India?

Indian Election Commission rules do not have a provision for the “Right to Reject” at the moment so, in 2009, the Election Commission of India asked the Supreme Court that to offer the voter a ‘None of the above’ option at the ballot The Government was not in favour of such idea.⁵

Thus “The People’s Union for civil Liberties” filed a public interest litigation to favor NOTA.⁶ Finally, Hon’ble Supreme Court in its verdict on 27th September 2013, has directed the Election Commission to make necessary provision in the ballot papers/ EVMS and provide a button for ‘None of the Above’ (NOTA) in EVMS. The judges. Said that this would lead to a systematic change in polls and political parties will be forced to project clean candidates.” “Democracy is all about choices and voters will be empowered by this right of negative voting’, said the order passed by a bench headed by chief Justice P. Sathasivam.⁷”

“Right to Reject” is a provision that empowers the voters to have an option to reject the candidate contesting election. Using this provision the voter can select a button during voting that says “None of the above”(NOTA) and can reject all the candidates

in case she/he does not believe in a candidate. The right to reject relies on the concept that in a democracy if the citizen have the right to select the candidates, than they should also have the right to reject the candidates.

The NOTA option was first used in the assembly elections held in five states last year. More than 15 lakh people exercise option in the states polls. The figure, however was lower than 1.5% of the total voters. Around 50,000 voters opted for NOTA in Delhi, 3.56 lakh in Chattisgarh, 5.9 lakh in Madhya Pradesh and 5.67 lakh in Rajasthan.

NOTA is also comprehended as “against all” a search vote, is a ballot option in some jurisdiction or organizations designed to allow the voter to indicate the disapproval of all of the candidates in a voting system. It is based on the principle that consent requires the ability to withhold consent in an election, just as they can by voting no on ballot questions.

Although frequently termed a “right to reject” in India, a former head of the Election Commission has noted that it is not in fact such a thing.⁸ The Election Commission also clarified that the NOTA voter are considered as invalid and will not be considered for determining the forfeiture of security deposit.⁹ However, the votes polled against the NOTA option are treated as invalid votes and votes polled against NOTA option are not taken into account for calculating the total valid votes.¹⁰

V. Need for introducing NOTA

In India, it generally arises that a voter does not support any of the candidates in the election, but they have no choice but to select a candidate. The judges of the Supreme Court of India viewed that, the introduction of ‘None of the above’ i.e. NOTA option to voters would lead to systemic change in polls and political parties will be forced to project clean candidates. In a voting system, the voter should be allowed to indicate disapproval of all of the candidates if they do not like any and all the candidates listed in the EVM. The political parties left with the option other than to nominate clean candidates on their behalf in the elections. Candidates with criminal or immoral backgrounds would have no option but to abstain from contesting elections.

The political process of choosing a representative which is chosen by the whims and fancies of political party and his own sycophancy is a sham. Voting for the right candidate is important and if voter find none, he will definitely go for NOTA.

NOTA is nothing but voter right to reject the wrong candidates and he would never let the wrong man take his vote matter how bad his options are. Though the vote is blank but if enough people vote NOTA, it will definitely spend the right message to parties which have long forgotten the ideals of a democracy.

“The Supreme Court felt that this would contribute to cleansing politics that the political leadership would formally know that there are people unhappy with the parties” choice of candidates. The logic that this would build moral pressure on political parties and possibly bring about a rethink their choice of candidates, making them hesitant to put up candidates, with criminal records. According to the Court, exercising the option of rejecting all candidates would lead to a “systemic change in the whole electoral process.”¹¹

VI. Election Results 2014: About 60 lakh voters chose ‘None of the above’

Approximately, 60 lakh voters opted for the ‘None of The Above’ (NOTA) option. Across the country while exercising their franchise in this 16th Loksabha polls with the maximum percentage of the electorate going for this choice in Pondicherry.

While exercising their franchise country’s 59,97,054 votes punched the NOTA button on the EVM, which equals to 1.1 percent of the total votes polled during these elections.

The following table shows NOTA Votes exercised in different states:

SL.No.	States	No of Nota Votes	Percentage
1	Puduchery	22,268	3%
2	Meghalaya	30,145	2.8%
3	Gujarat	4,54,880	1.8%
4	Chattisgarh	2,24,889	1.8%
5	Dadra Nagar Haveli	2,962	1.8%
6	Odisha	3,28,060	1.6%
7	Bihar	5,76,348	1.6%
8	Mizoram	6,495	1.5%
9	Jarkhand	1,90,241	1.5%
10	Daman and Diu	1,316	1.5%
11	Madhya Pradesh	3,91,837	1.3%
12	Sikkim	4,259	1.4%
13	Tamil Nadu	5,74,712	1.4%
14	Tripura	23,783	1.2%
15	Kerala	2,10,561	1.2%
16	Goa	10,103	1.2%
17	Rajasthan	3,27,902	1.2%
18	Uttarakhnd	48,043	1.1%
19	West Bengal	5,68,276	1.1%
20	Arunachal Pradesh	6,216	1.1%
21	Assam	1,47,057	1.0%
22	Maharastra	4,32,181	0.9%
23	Himachala Pradesh	29,156	0.9%
24	Delhi	39,690	0.5%
25	Lakshadweep	123	0.3%
26	Haryana	34,225	0.3%
27	Nagaland	2,696	0.3%
28	Panjab	58,754	0.4%
29	Karnataka	257628	0.8%

Source: Times of India (May 17, 2014,)

Besides all these states NOTA was also opted by the electorate in variable numbers in other states.¹²

VII. Advantages of NOTA:

In spite of so many negative points about 'NOTA', the positive points also cannot be ignored. The main purpose of the Supreme Court of India was to force the political parties to project candidates with clean background as their candidates. The candidates who win the election become part of the legislature, governing the country. Therefore, it was felt mandatory that candidates with criminal or immoral or unclean backgrounds are debarred from contesting the elections. If this opinion of 'None of The Above' is implemented with its true intent, the whole political scenarios of the country will drastically change.

VIII. Disadvantages of NOTA:

Several countries, who initially introduced such option to the voters, later discontinued or abolished the system. In countries voting machines contain a NOTA button, there are chances of it receiving a majority of the vote and hence "winning" the election. In such a case, Election Commission may opt any of these options

- a. Keep the office vacant.
- b. Fill office by appointment.
- c. Hold another election.

The state of Nevada, in such a situation, has a policy of no effect what so ever and the next highest total wins.

IX. Conclusion:

No doubt NOTA will help in increasing the voter turnout and hence make elections more participatory exercise. It will not make a difference to the electoral outcome but EC should implement the next step. If the NOTA option is the choice of the majority of the voters in a particular constituency, then re-election should be held with the condition that none of the candidates from the previous round can become candidates in the next round.

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