

**Bill No. 102 of 2016**

THE ELECTRICITY (AMENDMENT) BILL, 2016

By

SHRI DUSHYANT CHAUTALA, M.P.

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BILL

*further to amend the Electricity Act, 2003.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Amendment) Act, 2016.

Short title and commencement.

(2) It shall come into force on the such date as the Central Government may, by notification in the official Gazette, appoint.

36 of 2003.

2. In section 113 of the Electricity Act, 2003, in sub-section (1), in clause (a), for the words "is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court," the words "is a Judge of the Supreme Court or the Chief Justice of a High Court or an advocate for at least ten years in a High Court or two or more such Courts in succession" shall be substituted.

Amendment of section 113.

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## STATEMENT OF OBJECTS AND REASONS

The concept of separation of powers was proposed by Montesquieu in the sixteenth century and the concept of equal opportunity has been highlighted by the framers of the Constitution through various provisions. These two ideas are required to be incorporated in the Electricity Act, 2003, which provides *inter alia* for rationalization of electricity tariff, ensuring transparent policies regarding subsidies, constitution of Central Electricity Authority and such other matters.

The executive, the legislature and the judiciary are known as the three pillars of democracy. It is expected that the three should function independently without major intervention of each other which would ensure that the respective duties are discharged in the best possible manner. However, at the same time, there should be sufficient checks and balances on these three wings so to avoid any one of them from becoming totalitarian in nature. In India, the checks and balances system has been working effectively. However, it has come to notice that some of the Tribunals and Commissions have exclusive provisions where retired judges of the Supreme Court or High Courts are being appointed by the executives. This lies absolutely against the spirit of Constitution.

Therefore, the proposed amendment seeks to remove the provision for appointment of retired judges as the Chairperson and members of Tribunal, Commission or Authority. Thus only a sitting judge of the Supreme Court or a High Court, as the case may be, can be appointed to such post if that judge wishes to leave his office voluntarily and assents to join Tribunal or Commission.

The Bill also seeks to insert provisions wherein an advocate with not less than ten years of practice becomes eligible to be appointed as the Chairperson of the Tribunal. The rationale of such could be found in our Constitution which provides for appointment of advocate with certain years of practice as Judge of the Supreme Court or a High Court. The same should be applied for Tribunals. This will facilitate the speedy disposal of the cases pending before the Tribunals because the positions in the Tribunals shall not remain vacant for long. This also captures the idea of providing equal opportunity to people with equal experience and eligibility.

The proposed amendment seeks to ensure that the doctrine of Checks and Balances and Right to equality is maintained.

NEW DELHI;  
February 11, 2016.

DUSHYANT CHAUTALA

ANNEXURE

EXTRACT FROM THE ELECTRICITY ACT, 2003

(ACT NO. 36 OF 2003)

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**113.** (1) A person shall not be qualified for appointment as the Chairperson of the Appellate Tribunal or a Member of the Appellate Tribunal unless he—

(a) In the case of the Chairperson of the Appellate Tribunal, is, or has been, a Judge of the Supreme Court, or the Chief Justice of a High Court; and

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Qualification  
for  
appointment  
of  
Chairperson  
and Member  
of Appellate  
Tribunal.

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further to amend the Electricity Act, 2003.

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*(Shri Dushyant Chautala, M.P.)*