



Secrecy of Ballot

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Why in News

In a recent judgement, the **Supreme Court** has held that **secrecy of ballot** is the cornerstone of free and fair elections.

The choice of a voter should be free which is ensured by the secret ballot system in a democracy.

Key Points

- **Highlights of the Judgement:**

- The SC held that the principle of secrecy of ballots is an important postulate of **constitutional democracy** and referred to **Section 94 of the Representation of People Act (RPA) 1951**.

The section upholds the **privilege of the voters to maintain confidentiality** about their choice of the vote.

- The law must protect the right of voters to the secrecy of the ballot. Even a remote or distinct possibility that a voter can be forced to disclose for whom she/he has voted would act as a positive constraint and a check on the freedom to exercise the franchise.
- However, a voter can also **voluntarily waive the privilege of non-disclosure**.
 - The privilege ends when the voter decides to waive it and decides voluntarily to disclose their vote.
 - The court held that voters can neither be prevented from disclosing nor can be subjected to a complaint by anyone.

- **Background:**

- The judgment came on an appeal against the **Allahabad High Court** decision, setting aside the voting of a **no-confidence motion** in a Zila panchayat in Uttar Pradesh in 2018.

A **no-confidence motion** or **vote of no-confidence** or a **no-trust vote** can be sought to express that there is no longer confidence in the government.

- Allahabad HC found that some of the panchayat members had violated the rule of secrecy of the ballot.
- The SC referred to **Section 28(8) of the Uttar Pradesh Kshetra Panchayat and Zila Panchayat Adhiniyam, 1961** and ordered a re-vote of the motion within the next two months, by the secret ballot system.

This provision states that a motion of no confidence shall be put to vote in the prescribed manner by secret ballot.

- **Restoring Secrecy of Ballot:**

- Secrecy of ballot has become a **notional concept** after the introduction of **Electronic Voting Machines** (EVMs).
 - Since voters believe that only they themselves and their trusted ones know who they voted for which is not true actually because **EVMs give a near accurate idea of voting patterns**.
 - Each EVM is used for about 1,400 electors and votes cast in the **EVMs are individually counted and tallied booth-wise**.
 - Before the introduction of EVMs, **ballot papers were often mixed** to prevent intimidation of voters by disclosure of voting patterns.
- The idea of voting patterns gives an **advantage to political parties** which can be neutralised if **totalisers** are deployed to count votes in a constituency.
- **Totaliser:**
 - It is a mechanism which **allows votes from 14 booths to be counted together**.
 - This result obtained is **without disclosure of votes polled by candidates at particular voting booths/stations**, which will allay the fears of voters against any pre-poll intimidation or post-poll victimisation by any candidate.

Representation of the People Act 1951

- The holding of **free and fair elections** is the sine-qua-non of democracy. To ensure the conduct of elections in free, fair and in an impartial manner, the constitution-makers incorporated **Part XV (Articles 324-329)** in the constitution and empowered Parliament to make laws to regulate the electoral process.

- The **Election Commission of India** (ECI) is the watchdog of free and fair elections in the country and **Article 324** of the Constitution provides for its establishment.
- In this context, the Parliament has enacted the **Representation of the People Act (RPA), 1950** and **Representation of the People Act, 1951**.
- **Key provisions of the RPA 1951:**
 - It regulates the actual conduct of elections and by-elections.
 - It provides administrative machinery for conducting elections.
 - It deals with the registration of political parties.
 - It specifies the qualifications and disqualifications for membership of the Houses.
 - It provides provisions to curb corrupt practices and other offences.
 - It lays down the procedure for settling doubts and disputes arising out of elections.

Way Forward

- In a democracy, there is perhaps nothing more important than the credibility of the electoral process therefore elections should not only be fair but should be seen to be fair.
- The Election Commission needs to bat for making democracy truly vibrant and for voters' rights to free and fair elections as well as secrecy of their ballot. It cannot afford to allow parties the room to punish and reward voters on the basis of their voting patterns or indulge in what politicians euphemistically call booth management.

Source: TH