



# drishti

## The Big Picture — Political Parties Under RTI

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The Supreme Court has issued a notice to the centre and the Election Commission (EC) on an application seeking political parties to be declared public authorities in order to make them transparent and accountable to the public.

The public interest litigation (PIL) filed by Ashwini Kumar Upadhyay, a Bharatiya Janata Party (BJP) leader, wants political parties registered under section 29A of Representation of People Act, 1951 to be declared as 'public authority' under the Right to Information Act, 2005, (RTI).

His plea also included that all registered and recognized political parties should be directed to appoint public information officer and appellate authority within 4 weeks and make disclosures in letter and spirit of the RTI Act. In the event of non-compliance of provisions

of RPA, RTI Act, Income Tax Act, Moral Code of Conduct and other election laws and rules, political parties shall be derecognized by the ECI.

## Arguments in Favour

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- Except for the political strategy, other **matters relating to finance and administration need to be made available to public** because political parties are public institutions, receiving money from public.
- **Electoral Bonds are not promoting transparency in political funding** as donors remain anonymous to public.
- Infact, not only funding but **expenditure made by political parties**, especially during the time of elections **should be made public**.  
Currently in India, there is no ceiling on expenditure incurred by the political parties at the time of elections.
- **Political Parties are already under the RTI Act as they have not challenged the Central Information Commission's verdict of 3<sup>rd</sup> June 2013** (Political Parties are public authorities under Section 2(h) of the RTI Act); though they have also not complied with the order yet.
- **RTI act is a very balanced act**. There is a **section 8(1)** in the act that has ten exemptions within it. If a political party comes under the ambit of RTI act, then this section will **safeguard them from disclosing all types of information**.

## Arguments Against

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- **Law needs to be amended:**
  - Section 2(h) of RTI act defines public authority as the one which is created by or under the constitution or by the Parliament.
  - **Political Parties are formed under the act of Parliament** i.e. under the Representation of People Act, which is **not the same thing as being created by the Parliament**.
  - Therefore, until and unless the law is changed, it will be difficult to bring political parties under the ambit of RTI act.
- Political Parties have **apprehension** that disclosure of information under RTI act may give **advantage to their competitors**.
- **Political parties do not want to disclose their internal working as well as their decision making system**.

## Suggestions

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- Money should not be given to political parties as this creates a nexus between the funders and the political parties, thus affecting policy formulation in the country. Instead, **a National Election Fund should be created** for receiving the donations from people. The money received should be used for conducting elections.

- **Eliminating the root cause of requirement of money** i.e. banning election rallies and roadshows, but direct connect with people needs to be ensured. Replacing them by live T.V. debates is an option.

## Electoral Reforms related Recommendations

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- Following Reforms need to be taken immediately:
  - **The 'First Past the Post System'**, in which a person with the highest votes (even with one extra vote) is declared winner, **should be changed**. Rather, **a minimum percentage of total votes polled, should be fixed for declaring a candidate winner**.
  - A law for regulating political parties is required.
  - Preventing criminals from contesting elections.
- **Flow of black money into election process needs to taken care off.**
- There needs to be a **scrutiny of manifestos** issued by political parties. Also, one or two months before elections, manifestos should be issued so that people can understand and discuss things mentioned in them.
- Electoral System needs to be such that a sitting MLA or an MP has to resign from the current seat before filing the nomination for the other seat. This will help in **saving expenditure on bypolls**.
- Even in case of **simultaneous elections** to Lok Sabha and State Assemblies, **a system is needed to tackle the dissolution of assemblies** and vacancies that can occur during a ruling period.
 

The Prime Minister should be elected through secret and compulsory vote of all the members of lower house on nomination signed by at least 34% members. In the same way, no confidence motion, carrying the name of an alternative leader, should be passed, to de-seat an incumbent person and to fill the seat immediately.
- Since political parties seem less interested in electoral reforms, the **Supreme Court can take an action in this regard**.

*Currently, electoral reforms are work-in-progress. Initiative from public is needed to make them happen fast.*

## Drishti Input

### *Right to Information Act 2005*

- Enacted by the Parliament, it received the President's assent on 15th June, 2005.
- It provides for right to information for citizens to secure access to information under the control of public authorities in order **to promote transparency and accountability in the working of every public authority**.
- It is **applicable for all states in the country except for Jammu & Kashmir**.

- Under the provisions of the Act, **a citizen may request information from a "public authority" (a body of government) which is required to reply within thirty days.**