



Corrupt Practices Under RPA Act 1951

Prelims: Supreme Court, Representation of People's Act 1951.

Mains: Corrupt Practices Under RPA Act 1951.

Why in News?

Recently, the [Supreme Court \(SC\)](#) has said that providing false information about electoral Candidates Qualification is not a **Corrupt Practice** under [RPA \(Representation of People's Act\) Act 1951](#).

- The SC observed that **no one in India votes for a candidate based on their educational qualifications**.

What is the Case all About?

- The SC was hearing a petition, challenging a **2017 Allahabad High Court ruling**, which held that **declaration of false information pertaining to education qualification does not interfere with the free exercise** of electoral rights of the electors.
- The petition said that the electoral candidate committed a "corrupt practice" under Section 123(2) by interfering in the free exercise of electoral rights of the voters by not **disclosing his liabilities and correct educational qualifications** in his affidavit of nomination.
 - It also argued that a "corrupt practice" under Section 123(4) was committed by the candidate **in publishing a false statement of fact about his character** and conduct to influence the outcome of his election, knowingly.
- The SC declared the Petition as "null and void", saying that providing false information about a candidate's qualifications cannot be considered a **"Corrupt Practice"** under **Sections 123 (2) and Section 123 (4) of the RPA, 1951**.

What are 'Corrupt Practices' under the RPA, 1951?

- **Section 123 of the Act:**
 - It defines **'corrupt practices'** to include **bribery, undue influence, false information, and promotion or attempted promotion** of "feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language" by a candidate for the furtherance of his prospects in the election.
- **Section 123 (2):**
 - It deals with 'undue influence' which it defines as **"any direct or indirect interference or attempt to interfere on the part of the candidate** or his agent, or of any other person, with the consent of the candidate or his election agent, with the free exercise of any electoral right."
 - This could also include **threats of injury, social ostracism and expulsion** from any caste or community.
- **Section 123 (4):**

- It extends the **ambit of “corrupt practices” to the intentional publication** of false statements which can prejudice the outcome of the candidate’s election.
- Under the provisions of the Act, an **elected representative can be disqualified if convicted of certain offences**; on grounds of corrupt practices; for failing to declare election expenses; and for interests in government contracts or works.

What Practices has the Court held as Corrupt Practices in the Past?

- **Abhiram Singh v C.D. Commachen Case:**
 - In 2017, the SC in ‘*Abhiram Singh v C.D. Commachen*’ held that an election will be annulled if votes are sought in the name of a candidate’s religion, race, caste, community, or language, as per **Section 123 (3)** which prohibits the same.
- **SR Bommai v. Union of India:**
 - In 1994, the Supreme Court’s ruling in ‘*SR Bommai v. Union of India*’, said that the **encroachment of religion into secular activities is strictly prohibited**, citing subsection (3) of Section 123 of the RPA Act, 1951.
- **S. Subramaniam Balaji vs State of Tamil Nadu:**
 - In 2022, the SC while reconsidering its 2013 judgment in ‘*S. Subramaniam Balaji vs State of Tamil Nadu*’, it held that **promises of freebies cannot be termed a corrupt practice**.
 - However, the **matter is still yet to be decided**.

What is the Representation of the People Act 1951?

- **Provisions:**
 - It regulates the **conduct of elections**.
 - 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.
- **Significance:**
 - The act is significant for the smooth functioning of the Indian democracy as it bars the entry of persons with criminal background into representative bodies, thus **decriminalizing Indian politics**.
 - The act requires every candidate to declare his assets and liabilities, and maintain an account of election expenses. This provision ensures the **accountability** and **transparency** of the candidate in the use of public funds or misuse of power for personal benefits.
 - It **prohibits corrupt practices** like booth capturing, bribery or promoting enmity etc., which ensures the **legitimacy** and **free & fair** conduct of elections which is essential for the success of any democratic setup.
 - The act provides that only those political parties which are registered under section 29A of the RPA Act, 1951 are eligible to receive **electoral bonds**, thus providing a mechanism to track the source of political funding and ensuring **transparency** in electoral funding.

UPSC Civil Services, Previous Year Questions (PYQ)

Prelims

Q.1 Consider the following statements: (2021)

1. In India, there is no law restricting the candidates from contesting in one Lok Sabha election from three constituencies.
2. In the 1991 Lok Sabha Election, Shri Devi Lal contested from three Lok Sabha constituencies.
3. As per the existing rules, if a candidate contests in one Lok Sabha election from many constituencies, his/her party should bear the cost of bye-elections to the constituencies vacated by him/her winning in all the constituencies.

Which of the statements given above is/are correct?

- (a)** 1 only
- (b)** 2 only
- (c)** 1 and 3
- (d)** 2 and 3

Ans:(b)

Exp:

- In 1996, the Representation of the People Act, 1951 was amended to restrict from 'three' to 'two' the number of seats one candidate could contest in Lok Sabha and Assembly elections. **Hence, statement 1 is not correct.**
- In 1991, Shri Devi Lal contested three Lok Sabha seats, Sikar, Rohtak and Ferozepur seats. **Hence, statement 2 is correct.**
- Whenever a candidate contests from more than one seat and wins more than one, the candidate has to retain only one, forcing bypolls in the rest. It results
- in an unavoidable financial burden on the public exchequer, government manpower and other resources for holding by-election against the resultant vacancy. **Hence, statement 3 is not correct.**
- **Therefore, option (b) is the correct answer.**

Mains

Q. Discuss the procedures to decide the disputes arising out of the election of a Member of the Parliament or State Legislature under The Representation of the People Act, 1951. What are the grounds on which the election of any returned candidate may be declared void? What remedy is available to the aggrieved party against the decision? Refer to the case laws. **(2022)**

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