



## Parliament Should Enact Law to Cleanse Politics: SC

In the *Public Interest Foundation and ors vs. Union of India* judgment SC has ruled that it is the onus of the parliament to frame a law to prevent criminalization of politics.

- Five-judges constitution bench also ruled that mere framing of charges cannot be a basis of disqualification of the candidate.

### Background

- As per the data analyzed by the Association for Democratic Reforms (ADR) on the criminal record of Member of Parliament (MPs) and Member of Legislative Assemblies (MLAs):
  - Among the MPs elected to the 16th Lok Sabha, out of the 542 winners analyzed, 185(34%) winners have declared criminal cases against themselves. 112 (21%) winners have declared serious criminal cases including cases related to murder, attempt to murder, communal disharmony, kidnapping, crimes against women etc.
  - ADR also underlined that the chances of candidates with criminal charges were almost double as compared to clean candidates. The chances of winning of a candidate with criminal cases in the Lok Sabha 2014 elections are 13 percent while for a candidate with a clean record it is 5%.
  - In Karnataka, out of the 221 MLAs analyzed, 77(35%) MLAs have declared criminal cases against themselves. 54(24%) MLAs have declared serious criminal cases including cases related to attempt to murder, kidnapping etc.
  - In Uttar Pradesh, out of the 402 MLAs analyzed, 143(36%) MLAs have declared criminal cases against themselves. 107(26%) MLAs have declared serious criminal cases including cases related to murder, attempt to murder etc.
- The **Goswami Committee on Electoral Reforms**, in 1990, highlighted the crippling effect of money and muscle power in elections.
- The **N.N. Vohra Committee** which submitted its report in October 1993 studied of the problem of criminalization of politics and the nexus among criminals, politicians, and bureaucrats in India.
  - The committee had concluded that agencies, including the CBI, IB, RAW, had unanimously expressed their opinion that the criminal network was virtually running a parallel government.
- The **Law Commission of India, in its 244th report**, said that instead of politicians having suspected links to criminal networks, as was the case earlier, it was persons with extensive criminal backgrounds who began entering politics.
  - The Law Commission said that in the 10 years since 2004, 18% of the candidates contesting either national or State elections had criminal cases against them.
- 18th Report presented by a parliamentary committee to the Rajya Sabha in March 2007 expressed feeling that politics should be cleansed of persons with established criminal background". It said, **"criminalization of politics is the bane of society and negation of democracy"**.

## SC Judgment

### ▪ Parliament should enact Law

- SC left it to the wisdom of parliament to lay down law for disqualification of candidates facing serious criminal charges.
- SC mentioned that **Article 102** of the constitution specifically envisages that a ground for disqualifying one from being chosen as or being an MP is to be prescribed by a law made by the Parliament.
- Parliament should frame a law that makes it obligatory for political parties to remove leaders charged with “heinous and grievous” crimes, such as rape, murder, and kidnapping and refuse ticket to offenders in both parliamentary and Assembly polls.

### ▪ Direction to candidates

- Candidates must fill up forms provided by the Election Commission and state details of criminal cases pending against them in bold letters.
- A candidate contesting on the ticket of a party must inform the party about the criminal cases and the party, in turn, must put this up on its official website.
- The candidate and the party must then give this publicity by publishing it in widely-circulated newspapers in the area and in the electronic media. This must be done at least three times after the nomination is filed.

### ▪ On Political Parties

- SC noted that mere disqualification of the tainted legislature will not be effective rather efforts should be made to clean political parties.
- The court observed that cleansing politics from criminal elements begins with purifying political parties itself, as they are the central institution of India’s democracy.
- Supreme Court referred to the Law Commission reports which pointed out that political parties have been chiefly responsible for criminalization of politics. Though the Representation of the People Act disqualifies a sitting legislator or a candidate, there is nothing regulating the appointments to offices within the party.
- Convicted politicians continue to influence law-making by controlling the party and fielding proxy candidates in the legislature.
- Political parties act as a conduit through which interests and issues of the people are represented in Parliament. They play a central role in the interface between private citizens and public life.

## Way Forward

- Through this judgment, SC has tried to maintain the delicate balance of separation of power, as mentioned in the constitution, by not intervening in the law-making sphere of the Parliament. The judgment of the Supreme Court act as a guiding light for parliament and parliament should enforce a law for revoking the membership of person from political parties against whom serious charges are framed.
- Not only the law, other efforts mentioned time and again should also be taken to address the issue of corruption and criminalization of electoral processes like bringing political parties under the Right to Information, state funding of election and inner-party democracy etc.