



SC Plea for Lifetime Ban on Convicted Politicians

For Prelims: [Supreme Court \(SC\)](#), [Representation of the People Act, 1951 \(RP Act, 1951\)](#), [Election Commission \(EC\)](#), [Parliament](#), [Administrative Reforms Commission](#), [Law Commission](#).

For Mains: Measures for decriminalization of politics

[Source: TH](#)

Why in News?

The [Supreme Court \(SC\)](#) is hearing petitions seeking a **lifetime ban on convicted persons** from contesting elections for **decriminalizing politics**.

- Petitions seek to amend the [Representation of the People Act, 1951 \(RP Act, 1951\)](#) that contains **legal provisions** for convicted persons from contesting elections.

What are Legal Provisions and SC Judgements Related to Convicted Persons?

- **Legal Provisions:**
 - **Section 8(3):** It determines disqualification based on **sentence duration**.
 - If a person is convicted of a criminal offense and sentenced to **imprisonment for two years or more**, they are **disqualified** from contesting elections during the **period of imprisonment** and for **six years after release**.
 - **Section 8(1):** It determines disqualification for **specific offenses** that lead to **immediate disqualification**, irrespective of the **sentence duration and six years** after release.
 - Offences include **rape** and other heinous crimes, **untouchability**, **terror**, and **corruption** related offenses.
 - **Section 11:** The [Election Commission \(EC\)](#) can **remove or shorten** a convicted person's **disqualification period**.
 - E.g., In 2019, the EC controversially cut **Prem Singh Tamang's (Sikkim's CM)** disqualification from **6 years to 13 months**, enabling his election bid despite a corruption conviction.
- **SC Judgements:**
 - **Association for Democratic Reforms (ADR) Case, 2002:** It **mandated the disclosure of criminal records** of all candidates contesting elections.
 - **CEC vs. Jan Chaukidar Case, 2013:** The SC upheld the **Patna High Court's** view that **jailed individuals** lose their 'elector' status under **Section 62(5)** of the RP Act, 1951, disqualifying **undertrial prisoners** from contesting elections.
 - However, the [Parliament](#) amended the RP Act, 1951 in **2013** to overturn this judgment allowing under **trial prisoners to contest elections**.
 - **Lily Thomas Case, 2013:** The SC struck down **Section 8(4)** of the **RP Act, 1951**, which

earlier allowed convicted legislators to **remain in office** if they **filed an appeal**.

- After this judgment, a **sitting MP/MLA** is **immediately disqualified** upon **conviction**.
- **Public Interest Foundation Case, 2018:** The SC mandated political parties to publish **candidates' criminal records** on their websites, social media, and newspapers.

Status of Criminalization of Politics in India

- A report by **ADR** states that 251 (46%) of the 543 elected MPs in **2024**, have **criminal cases** against them, and **171 (31%)** face serious criminal charges including **rape, murder, attempt to murder and kidnapping**.
- The **chances of winning** for a candidate with a criminal background was **15.4%** as against just **4.4%** for a candidate with a **clean background**.

What are Arguments For and Against a Lifetime Ban on Convicted Politicians?

Arguments For	Arguments Against
<ul style="list-style-type: none">▪ Vohra Committee (1993) recommended strict background checks and disqualifies candidates with serious criminal charges.	<ul style="list-style-type: none">▪ Political rivals may file false cases to disqualify opponents, exploiting the judicial process.
<ul style="list-style-type: none">▪ Just like government employees are dismissed upon conviction, politicians should face similar disqualification.	<ul style="list-style-type: none">▪ MPs and MLAs lack 'service conditions' like government servants. A six-year disqualification after sentencing is sufficient.▪ Elected representatives differ from government employees as they are chosen by the public rather than appointed through service rules.▪ Unlike bureaucrats, MPs and MLAs have a fixed 5-year tenure and must seek re-election, making them directly accountable to voters.
	<ul style="list-style-type: none">▪ Ignores the possibility of reformation and denies individuals a second chance to serve. Measures such as fast-tracking cases against politicians may be more effective.

Way Forward

- **Strengthening Disqualification Criteria:** Extend disqualification **beyond six years** for grave crimes like **corruption, terrorism, and sexual offenses**.
- **Empowering Election Commission:** Empower the EC with **stronger regulatory powers** to verify candidates' **criminal records and financial disclosures**.
 - EC has recommended that even persons against whom **charges** are framed by a **competent court** for an offence that entails **punishment of more than five years** should not be allowed to contest elections.
- **Judicial Reforms:** **Fast-track trials of MPs/MLAs** in **special courts** to ensure **time-bound justice** and avoid prolonged legal battles that allow criminals to continue contesting elections.
- **Enforcing a Code of Conduct for Politicians:** Introduce a **mandatory Code of Conduct for political leaders**, ensuring **ethical behavior, accountability, and discipline in public life**.

- Establish a **Political Ethics Committee** under the Election Commission to monitor violations of ethical standards.

Drishti Mains Question:

Critically examine the role of the Supreme Court in addressing the criminalization of politics in India, with a focus on the disqualification of convicted politicians.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. Consider the following statements:

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)

Mains

Q.1 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)

