



Right to Privacy for Election Candidate

For Prelims: [Supreme Court](#), [Election Commission](#), [Right to Privacy](#), [Representation of People's Act, 1951](#).

For Mains: Balance between the Right to Privacy and Transparency in the Electoral Process, Electoral Reforms, Making elections more fair and transparent.

Source: TH

Why in News?

Recently, the [Supreme Court of India](#) in its recent judgement has ruled that every candidate contesting in the elections need not declare each and every movable asset it possesses.

- The Court ruled that Candidates too have a [Right to Privacy](#) from the voters and they cannot lay their life out thread-bare for examination.

What are the Key Facts About the Case?

- The SC was hearing a petition filed by an MLA from Arunachal Pradesh challenging a 2023 Guwahati [High Court](#) judgement that declared his **election null and void for not declaring three vehicles as his assets** in his affidavit filed in the form appended to the **Conduct of Election Rules, 1961**.
- The petition said that the electoral candidate committed a **"corrupt practice" under Section 123 of the [Representation of People Act \(RPA\), 1951](#)** by not declaring the ownership of said vehicles.
- Supreme Court said that a **candidate's choice to retain his privacy** on matters that were of no concern to the voters or were irrelevant to his candidature for public office did not amount to a "corrupt practice" under **Section 123 of the [RPA, 1951](#)**.
 - Also, such non-disclosure would not amount to a **"defect of a substantial nature" under Section 36(4) of the 1951 Act**.
- The court said that voters have a right to the disclosure of information which was essential for choosing the candidate for whom a vote should be cast.

What is the Right to Privacy?

- The right to privacy is a **fundamental right**, which protects the inner sphere of the individual from interference from both State and non-state actors and allows the individuals to make autonomous life choices.
- The Supreme Court described privacy and its importance in the landmark decision of [K.S. Puttaswamy vs Union of India](#) in 2017 that the right to Privacy is a fundamental and inalienable right and attaches to the person covering all information about that person and the choices that he/she makes.
- The right to privacy is protected as an **intrinsic part of the right to life and personal liberty**

under Article 21.

What is RPA 1951 and the Corrupt Practices under the Act?

▪ About:

- The RPA of 1951 governs the conduct of elections and the qualifications and disqualifications of elected representatives.

▪ Provisions:

- It regulates the **conduct of elections**.
- It specifies the **qualifications and disqualifications for membership** in the parliament of legislative 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.
- **Section 36(4) in the Act of 1951** mentions that the returning officer shall not reject any nomination paper on the grounds of any defect that is not of a substantial character.

▪ Corrupt Practices under RPA, 1951:

- **Corrupt Practices: Section 123 of the Act** defines '**corrupt practices**' to include **bribery, undue influence, false information, and 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.
 - **In *Abhiram Singh versus C. D. Commachen Case (2017)*** SC ruled that candidates are **prohibited from appealing for votes not only based on their own religion but also on that of the voters**.
- **Undue Influence:** The section defines **undue influence as any direct or indirect interference**, including threats, that hinders the free exercise of electoral rights.
- **Disqualification:** Section 123(4) allows **disqualification of an elected representative for certain offences**, corrupt practices, failure to declare election expenses, or having interests in government contracts or works.

▪ Significance:

- The act is significant for the smooth functioning of Indian democracy as it bars the entry of persons with criminal backgrounds into representative bodies, thus **decriminalising 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.
- It **prohibits corrupt practices** like booth capturing, bribery or promoting enmity etc., which ensures the **legitimacy** and **free & fair** conduct of elections.
- The act provides that only those political parties that are registered under section 29A of the RPA Act, 1951 are eligible to receive **electoral bonds**, and ensuring **transparency** in electoral funding.

Drahti Mains Question:

Q. Discuss the implications of the recent Supreme Court judgment on the right to privacy of election candidates regarding the disclosure of assets.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims:

Q. 'Right to Privacy' is protected under which Article of the Constitution of India?

- (a) Article 19
- (b) Article 20
- (c) Article 21
- (d) Article 29

Ans: c

Q2. Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement? (2018)

- (a) Article 14 and the provisions under the 42nd Amendment to the Constitution.
- (b) Article 17 and the Directive Principles of State Policy in Part IV.
- (c) Article 21 and the freedoms guaranteed in Part III.
- (d) Article 24 and the provisions under the 44th Amendment to the Constitution.

Ans: (c)

Mains:

Q. Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on the Right to Privacy. **(2017)**

Q. "There is a need for simplification of procedure for disqualification of persons found guilty of corrupt practices under the Representation of Peoples Act". Comment. **(2020)**

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