

Criminalization of Politics

Why in news?

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The Supreme Court's latest order asks the Election Commission (EC) to clarify its position on the PIL seeking a lifelong ban on candidates convicted in criminal cases.

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What happened?

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- The petition demanded that an order be issued directing the Centre to take necessary steps to debar persons charged with criminal offences from contesting elections, forming a political party and becoming office bearers.

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- It further seeks a direction for providing adequate infrastructure to set up special Courts to decide criminal cases related to members of the Legislature, Executive and Judiciary within one year.

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- It alleges that judicial interpretation of Section 8(3) of the Representation of Peoples Act (RPA) has not been very satisfactory.

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- And, just a few months back, the EC had supported the petitioner.

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- However, on July 18, 2017 hearing, the EC's advocate took a different stand.

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- The Lawyer of EC has said that the commission has not taken any decision and doubts **whether it falls in the legislature's domain**.

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- Since this stand was inconsistent with the one taken earlier, the Supreme Court (SC) criticized the EC heavily.

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What shows the political class in poor light?

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- In 2002, the SC had made it obligatory for all candidates to **file an affidavit** before the returning officer, disclosing criminal cases pending against them.
- Civil society organisations like the Association for Democratic Reforms (ADR) analyse and publish this information.
- According to the ADR's analysis, 187 MPs in the current Lok Sabha face criminal charges (that is, 34.4%).
- Of them, 113 face serious criminal charges.
- The number has gone up from 162 (76 serious) charges in 2009 and 128 (58 serious) in 2004.
- This shows the politicians and the legislature in a poor light.

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What is the way out?

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- The political parties should themselves **refuse tickets** to the tainted.
- The **RPA should be amended** to debar persons against whom cases of a heinous nature are pending from contesting elections.
- And, lastly, **fast-track courts** should decide the cases of tainted legislators quickly.
- In the landmark judgment of March 2014, the SC had directed all subordinate courts to decide on cases involving legislators within a year, or give reasons for not doing so.
- The government of India also offered full support for the implementation of this order.
- It is important to see how the SC judgement has been implemented on the ground.

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What is Section 8 of RPA?

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- Section 8 of the RPA, 1951 disqualifies a person convicted with a sentence of two years or more from contesting elections.

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- But, those under trial continued to be eligible to contest elections.

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- **The Lily Thomas case (2013)**, however, ended this unfair advantage.

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- Section 8(3) stipulates that a person convicted of any offence and sentenced to imprisonment for not less than two years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further **period of six years** since his release.

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Source: The Indian Express

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