

SUPREME COURT ON CRIMINALISATION OF POLITICS

The Supreme Court recently in the two different judgements has raised concerns about the menace of criminalisation in politics.

Criminalisation of politics means the participation of criminals in politics which includes that criminals can contest in the elections and get elected as members of the Parliament and the State legislature. It takes place primarily due to the nexus between politicians and criminals. The various reasons for this ;In spite of taking appropriate measures to amend the Representation of Peoples Act there has been an unsaid understanding among the political parties which deters Parliament to make strong law curbing criminalisation of politics. Several laws and court judgments have not helped much, due to the lack of enforcement of laws and judgments. Publishing of the entire criminal history of candidates fielded by political parties may not be very effective, as a major chunk of voters tend to vote through a narrow prism of community interests like caste or religion. Candidates with serious records seem to do well despite their public image, largely due to their ability to finance their own elections and bring substantive resources to their respective parties. Also, sometimes voters are left with no options, as all competing candidates have criminal record

In one case, it found nine political parties guilty of contempt for not following in letter and spirit its February 13, 2020 direction .

In another case, it has issued directions that no criminal case against MPs or MLAs can be withdrawn without an approval of the high court of the concerned state.

Political Parties Charged for Contempt : The February 2020 order required political parties to publish details of criminal cases against its candidates on their websites, a local vernacular newspaper, national newspaper and social media accounts. This is to be done within 48 hours of candidate selection or not less than two weeks before the first date for filing of nominations, whichever is earlier. The directives of the court; The court took a lenient view of the matter, as it was the first elections (Bihar assembly Elections 2020) conducted after issuance of its directions. Directed political parties to have a caption “candidates with criminal antecedents candidates” on their homepages. It asked ECI to create a dedicated mobile application containing information published by candidates regarding their criminal antecedents. The court appealed to the conscience of the lawmakers to come up with a law tackling the criminalization of politics.

Approval of High Court for Withdrawing Criminal Cases against MPs/MLAs: State government cannot withdraw any of the criminal charges from their politicians without the prior permission of the respective High Court. It was a move that significantly clips the powers of the state governments at a time when the top court has expressed grave concern over the criminalisation of politics. The Supreme court directed that: Examine the withdrawals, whether pending or disposed of since last year. Then, High court Chief Justices to constitute Special Benches to monitor the progress of criminal cases against sitting and former legislators; Judicial officers presiding over Special Courts involving prosecution of MPs or MLAs shall not be transferred until further orders; Asked all the high courts to furnish details of posting of judges and the number of pending and disposed cases before them.