

What's with so many political parties?

Most of us pay attention to those political parties which have secured a representative in the recently concluded Lok Sabha/ Assembly elections. But what about those parties which stay registered with the Election Commission of India (ECI) but rarely contest? How many such parties exist and what do they do after getting registered?

According to the ECI notifications¹, as of 17th April, 2014, there were a total of 1698 political parties registered with the Commission. A major chunk of 1,645 or about 97% of registered political parties are unrecognised parties (newly formed parties, those which have not secured enough percentage of votes to become a state party or those which have never contested). It is interesting to note that out of the 1,645 registered unrecognised parties, only 419² or 25% contested in the Lok Sabha elections, 2014. To focus on a smaller number, about 52 parties got newly registered after the ECI announced the date of Lok Sabha elections (5th March, 2014). But only 15 or 29% of these brand new parties contested in elections!

The scenario was not very different during the Lok Sabha elections in 2009. Out of 1,000 unrecognised parties³, only 322 or 32% contested⁴ in the General elections.

So, the important question is 'why are there so many parties registered with the ECI when three-fourth of them do not participate in the democratic process of the country?'

Political parties are completely exempted from paying Income Tax as long as they file their Income Tax returns to the IT Department and submit details of donations received above Rs 20,000 to the ECI, annually⁵. Even if the parties declare that they have not received any amount above Rs 20,000 from a single donor, they would still enjoy tax exemption. So, political parties that do not contest in elections can continue to collect donations and enjoy tax exemption.

A case study:

In 2013, Association for Democratic Reforms (ADR) had obtained a copy of the communication between the ECI and the Central Bureau of Direct Taxes (CBDT) dated 3rd March, 2006, via an RTI application, regarding scrutiny of contributions reports of 2 unrecognised parties as their reports indicated "gross misuse of provisions of tax exemption".

ECI had, in 2007, held meetings with the CBDT regarding enquiry in the case of contribution reports submitted by a few unrecognised parties which were suspicious. Rashtriya Vikas Party, an unrecognised political party, during the Financial Year 2005-06, had declared cash donations amounting to Rs 40 lakhs and a firm had shown contribution of Rs 2 crores in 3 transactions and was hence taken up for scrutiny by the CBDT. The party was told to produce books of accounts and other documents to enable to Assessing Officer (AO) to deduce its income. As the party failed to produce these books stating they have been lost during transportation, CBDT disallowed tax exemption and initiated penalty under IT Act for concealment of income. Also, the jurisdictional AO reported that probability went against the firm having made Rs 40 lakhs of cash donation to the said party.

In the second case, Parmarth Party (currently named Matra Bhakt Party) had declared contributions amounting to Rs 96.43 lakhs for FY 2003-04 and Rs 47.28 lakhs for FY 2004-05. The donations report was forwarded to the CBDT to verify the genuineness of the donations. Though the donations were reported to have come from donors assessed to tax, the party's political activities were surveyed under section 133A of the IT Act. There was no evidence of any political activity being carried out, observed. It was also seen that the contributions to Parmarth Party were being utilized towards investment in shares, loans and advances, jewellery etc. it was also noticed from bank statements that loans and advances were given to trading and business concerns. As no books of accounts or documents were made available despite multiple visits to the party's office premises, further enquiries into the genuineness of the claims were initiated by the CBDT.

According to the above mentioned communication, the ECI had "time and again written to Hon'ble Prime Minister and the Law Ministry for empowering the Commission in matters regulating the registration and de-registration of political parties and the need of amendment in the law connected therewith but no action has been taken in this regard so far".

Fate of parties not contesting for more than 6 years:

In 1999, the ECI had issued notices to more than 200 political parties which were registered till 1995 but failed to contest in any elections. Notices to those parties which were returned undelivered parties or parties which failed to respond to these notices were deleted from the list of registered parties, which added up to 150 parties. The same exercise was repeated in 2008 for 220 parties registered till 2000 but failed to contest in elections between 1999 and 2004. Due to lack of man power, the exercise could not be completed by the ECI.

The exercise should continue to weed out any political parties which do not contest in any election for more than 5 years and also as a means to strengthen the registration process.

Conclusion:

From the above case studies, it can be concluded that a number of political parties are being formed as legal entities to ostensibly receive voluntary contribution and evade taxes but not contest in elections. More importantly, Sections 29B and 29C of RPA and the Income Tax Act do not place any condition regarding contesting of election for collecting donations. Thus the above mentioned laws are prone to gross misuse. There is a dire need to look into the proposals of the ECI regarding regulation of registration of political parties so that such blatant misuse of law by those entities which were created to form laws, does not continue.

References:

1. http://eci.nic.in/eci_main1/PolPar/ListofPolParties.aspx
2. http://eci.nic.in/eci_main1/GE2014/ge.html
3. http://eci.nic.in/eci_main/ElectoralLaws/OrdersNotifications/symbols170309.pdf
4. http://eci.nic.in/eci_main/archiveofge2009/Stats/VOLI/02_ListOfPoliticalPartiesParticipated.pdf
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