

ADR's Legal Interventions

**State Partners' Meeting
11th National Conference**

Kolkata

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Synopsis of the presentation

1. Central Information Commission
2. Supreme Court of India
3. Delhi High Court
4. Recent judicial pronouncements on electoral and political reforms (2013, 2014 & 2015)
5. The 20th Law Commission Reports

Political Parties under RTI Act

Central Information Commission

- On 3rd June 2013, CIC declared 6 National Political Parties (INC, BJP, BSP, CPI(M), CPI and NCP) as Public Authorities under ambit of RTI Act.
- Non compliance as well as contempt of the CIC order. (21 months have passed since the 3rd June order)
- CIC on 16th March 2015, held that its lacks power in cases of contempt and non compliance.
- Remedies sought with the CIC:
 1. *Penalty of Rs. 25000 under section 20(1) of RTI Act, 2005*
 2. *Compensation under section 19(8)(B) RTI Act, 2005*
 3. *Direction to Political Parties to appoint PIO/CPIO*

IT returns of MPs/MLAs in public domain

Central Information Commission

- ADR had appealed to the CIC on 20th August, 2010 to make IT Returns of MPs/MLAs in public in order to promote.
 - ✓ Transparency & accountability
 - ✓ A check on the sources of income
 - ✓ Encourage public debate
- In 2013, 28 sitting MPs/ MLAs voluntarily disclosed their IT Returns on request by ADR.
- A full Bench CIC hearing was convened on 16th April, 2013 and the matter was reserved. (Bench retired in September, 2013. Since then we have been approaching the CIC office for a new hearing date)
- Remedy Sought: ADR's primary contention is that there is an overriding public interest in getting IT returns of the MPs in public domain.



FCRA violation by INC & BJP

(WP (C) 131/2013), Supreme Court of India

- PIL filed in January 2013 in Delhi High Court by ADR & Dr. EAS Sarma.
- On 28th March, 2014, INC & BJP were found guilty of taking foreign funding & violating the provisions of FCRA.
- Delhi HC directed MHA & ECI to take action within 6 months
- Political Parties challenged Delhi HC order in Supreme Court
- On 22nd August, 2014, during the hearing, the Apex Court did not grant any stay against the HC's order.
- Delhi HC order still stands unchallenged.
- Matter is still pending with SC.

Transparency in election expenditure mechanism of Political parties

(WP (C) 3632/2014), Delhi High Court

- ADR filed writ petition in Delhi HC on 9th May, 2014.
- Court had issued notices to Ministry of Law & Justice and ECI to file their counters before the bench.
- Bench has now listed the matter for hearing on 16th April, 2015 at the end of the Board.
- Remedies sought:
 - ✓ *Introduce ceiling on the election expenditure of political parties, on and during the Elections*
 - ✓ *Direct Political Parties to submit expenditure statements, beginning one year prior to elections*
 - ✓ *Direct Political Parties to submit the Account Statements of Income and Expenditure, periodically, ie. once a month before the declaration of the election, and at least once a week during the elections*

Ashok Chavan's paid news case

(LPA No. 678/2014), **Delhi High Court**

- On 5th May, 2014 SC held that ECI has power to disqualify a candidate under section 10A of RPA.
- ADR had intervened in the matter supporting the stand of ECI.
- SC court ordered ECI to conduct an enquiry against Ashok Chavan within 45 days.
- On 13th July 2014, ECI issued a show cause notice to Mr. Ashok Chavan.
- On 25th July, 2014, Mr. Chavan filed an appeal in Delhi HC against the show cause notice.
- On 28th July 2014, Delhi HC imposed stay against ECI's order.
- On 12th September 2014, single judge bench of Delhi HC set aside show cause notice issued by ECI.
- Appeal has now been filed with a two judges bench in Delhi HC.
- Next hearing is on 8th April, 2014.



Recent judicial pronouncements on electoral and political reforms

Year 2013

- Lily Thomas Vs. Union of India & Ors.(WP (C) No. 490/2005):
Disqualification of convicted MPs/MLAs
- Moti Lal Yadav Vs. Chief Election Commissioner, ECI & Ors.
(MISC. Bench No. 5889/2013): *Caste- based rallies*
- PUCL & Anr. Vs. Union of India & Ors.(WP (C) No. 161/2004):
Inclusion of NOTA button on the EVMs
- Resurgence India Vs. ECI & Anr. (WP (C) No. 121/2008):
Rejection of nomination papers in case of blank affidavits
- S. Subramaniam Balaji Vs. Govt. of Tamil Nadu & Ors. (CA No. 5130/2013): *Freebies in election manifestos of Political Parties*

Recent judicial pronouncement on electoral and political reforms

Year 2014

- PFI & Ors. Vs. Union of India & Ors. (WP (C) No. 531/2011): *Disqualification of candidates on charges framed by the court*
- Manoj Narula Vs. Union of India (WP (C) No. 289/2005): *Duty of PM & CMs not to appoint ministers against whom charges have been framed by a criminal court*
- Kishan Shankar Kathor Vs. Arun Dattatray Savant & Ors. (CA No. 4261/2007): *Suppression of information regarding assets of spouse in the affidavit: A case of non-disclosure of vital information in the affidavits*

Recent judicial pronouncements on electoral and political reforms

Year 2015

- Krishna Moorthy Vs. Sivakumar & Ors. (SLP (C) No. 14918/2009): *Cancellation of election of law makers on suppression of information about pending criminal cases which are within a special knowledge of candidate.*

The 20th Law Commission Reports
244th report on Electoral Disqualification, 2014

- *Whether disqualification should be triggered upon framing of charges by the court*
- *Whether filling of false affidavits under Section 125A of RPA should be a ground for disqualification*

The 20th Law Commission Reports
255th report on Electoral Reforms, 2015

- *Election expenditure, contribution and disclosure*
- *Laws regulating political parties & inner party democracy*
- *Anti Defection Law in India*
- *Strengthening the office of ECI*
- *Paid news*
- *Govt. sponsored advertisements*
- *Election petitions*
- *NOTA & Right to Reject and Recall*
- *Compulsory voting*
- *Independent candidates*

Thank You

Association for Democratic Reforms

National Election Watch

New Delhi

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