

Date: 19-06-2023

To,

Shri Rajiv Kumar
Chief Election Commissioner
Election Commission of India (ECI)

Shri Anup Chandra Pandey
Election Commissioner
Election Commission of India (ECI)

Shri Arun Goel
Election Commissioner
Election Commission of India (ECI)

Matter related to publication of criminal cases against candidates selected by political parties along with reasons for such selection in pursuant to Supreme Court judgments dated 25th September, 2018 and 13th February, 2020.

Subject: Request for an immediate action against political parties and their office bearers for wilful disobedience and blatant disregard of the lawful directions of the Election Commission of India issued in pursuance to the Supreme Court judgments in (2019) 3 SCC 224 and 2014 (3) SCALE 563.

Dear Sir (s),

- 1) On 13th February 2020 the Hon'ble Supreme Court in *in Rambabu Singh thakur Vs. Sunil Arora and others*, (2019) 3 SCC 224 had directed political parties to list out reasons on their website including their social media platforms for nominating candidates with criminal background within 72 hours of the selection of such candidates. This direction of the Apex Court had come in the light of a contempt petition filed against the non-implementation of its earlier order dated 25th September, 2018 on publication of criminal cases by candidates and political parties which clearly were not taken very seriously. Consequently, the Supreme Court had reprimanded political parties for failing to widely publish the details of criminal cases pending against the candidates selected by them. Going one step further, the Supreme Court in its directions had also specifically instructed political parties to give reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates. As per these mandatory guidelines, the reasons for such selection have to be with reference to *qualifications, achievements, and merit of the candidate* concerned.

- 2) In compliance with Supreme court orders dated 25th September, 2018 and 13th February, 2020, the Election Commission through its *letters* dated 6th March 2020 & 10th October 2018 had also issued guidelines titled ‘Guidelines on publicity of criminal antecedents by political parties and candidates’. These guidelines stated:

- I. It is mandatory for **political parties** at the Central and State election level to upload on their *website detailed information regarding candidates with pending criminal cases including the nature of the offences, relevant particulars like whether charges have been framed, the concerned Court, the case number etc.*
- II. **Political parties** will also have to give *reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates.*
- III. The reasons as to selection shall be with reference to the *qualifications, achievements and merit of the candidate concerned*, and not mere “winnability” at the polls.
- IV. This information shall also be published in: (a) *One local vernacular newspaper and one national newspaper*; (b) *On the official social media platforms of the political party, including Facebook & Twitter.*
- V. These details shall be published within *48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations*, whichever is earlier. In its letter the Commission had also stated that “if a political party fails to submit such a compliance report within 72 hours of the selection of the said candidate with the Election Commission, the Election Commission shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as being in contempt of this Court’s orders/directions.” In addition, the Commission had warned the candidates contesting elections and political parties that *“in case of non-compliance of the direction by the candidate/political parties, the returning officers will give a written reminder to them and in the event of non-compliance till the end of the elections, the returning officer will report to the state’s Chief Electoral Officer who will intimate ECI. ECI will take a final decision in the matter.”*

A true copy of ECI’s letters dated 6th March, 2020 and 10th October, 2018 titled ‘Guidelines on publicity of criminal antecedents by political parties and candidates’ is annexed herewith and marked as ANNEXURE A/1.

- 3) At the outset, this application is being filed before the Commission against the wilful disobedience and violation of the mandatory directions of this Commission issued in the implementation of Hon’ble Supreme Court’s directions dated 25th September, 2018 and 13th February, 2020 passed in *Rambabu Singh thakur Vs. Sunil Arora and others, (2019) 3 SCC*

224. The contemptuous behaviour and inexcusable conduct of the political parties is apparent from the fact that on 15th July 2021 and 20 July 2021 in ***Brajesh Singh vs. Sunil Arora and others, Contempt Petition (C) No. 656 of 2020*** the Hon'ble Supreme Court had again considered the contempt by political parties against the wilful disobedience of the court's order dated 13th February 2020. While observing the egregious default by political parties, the Supreme Court had also stated that ***neither the Legislature nor the Political Parties will ever be keen on taking steps to stop the entry of candidates charged with criminal cases.*** Not only these parties had again followed their old practice of giving tickets to candidates based on 'Muscle and Money power' but while listing out the reasons for such selection, the political parties had justified such selection based on fallacious and unsubstantiated grounds such as popularity, no other choice etc.

- 4) It is submitted that on 10th August, 2021 the Hon'ble Supreme Court in ***Brajesh Singh vs. Sunil Arora and others, Contempt Petition (C) No. 656 of 2020*** had reprimanded political parties for failing to publish the details of criminal cases pending against the candidates selected by them with reasons for selection of such individuals. Subsequently, the Hon'ble court had **penalised 10 political parties** that had contested the ***Bihar Assembly Elections, 2020*** for not complying with its orders dated **13th February, 2020 and 25th September, 2018** that had directed political parties ***to publish and list out reasons on their website including their social media platforms for nominating candidates with criminal background within 72 hours of the selection of such candidates.*** As a final warning the court was forced to impose a penalty of **Rs 1 lakh and Rs 5 lakh** respectively to these 10 political parties for flouting its 13/02/2020 order during Bihar Assembly Election which was held in Oct-Nov 2020 and had also warned them that they should be cautious in future and ensure that the directions issued by this court as well as the Election Commission of India are followed in ***letter and spirit.***
- 5) The Supreme Court while calling '***criminalisation in politics as a bitter manifest truth, which is a termite in the citadel of democracy***' had expressed immense anguish over the hard-hitting truth that our Law makers have complete failed in taking any concrete step/action against growing criminalization in Indian elections. The Hon'ble Supreme court in ***Brajesh Singh vs. Sunil Arora and others, Contempt Petition (C) No. 656 of 2020*** had thus observed:

"17. The nation continues to wait, and is losing patience. Cleansing the polluted stream of politics is obviously not one of the immediate pressing concerns of the legislative branch of government."

A true copy of the Supreme Court judgment in *Brajesh Singh vs. Sunil Arora and others, Contempt Petition (C) No. 656 of 2020* is annexed herewith and marked as ANNEXURE A/2.

- 6) Through this application, it is placed on record that in spite of the repeated requests and reminders given by the Hon'ble Supreme Court and other main stakeholders including the Election Commission of India, political parties have completely failed to follow the aforementioned directions during **the Assembly Elections held in the years 2023, 2022 and 2021**. As a matter of fact, carrying forward with the tradition of blatant disregard and with their sole agenda of winning elections, political parties had purposely fielded such tainted candidates with criminal background and overlooked the critical credentials necessitated in a participatory democracy such as *merit, integrity, honesty, qualifications and achievements*.
- 7) ADR had analysed and compiled the data on C2 and C7 forms issued by the Election Commission from the websites as well as the social media handles of various political parties in the State/UT during the 2023, 2022 and 2021 Assembly Elections. According to the analysis conducted by Association for Democratic Reforms (ADR) on '*Analysis of publication of criminal antecedents by political parties along with reasons for such selection*' revealed major shortcomings in the implementation of the aforementioned directions of the Hon'ble Supreme court. Several political parties, regardless of their current political outreach and popularity, ***did not have a functional website*** to publish details of candidates with criminal background along with reasons, or there were *language barriers (with regard to regional political party websites)* which prevented easy access to information. On the other hand, a few political parties that did have a website link, ***had not bothered to maintain*** this crucial information and/or ***had inaccessible webpages***. While giving reasons for fielding candidates with criminal cases, ***the political parties had just copy pasted the exact same reasons for different candidates***. There were yet others that had a separate section dedicated for election information, but they either ***failed to upload necessary documents or had dysfunctional website tabs***. Notably, even among the few political parties that published Format C7 within the stipulated time period, there were some grave problems which emerged upon analysis of the information provided through these affidavits. These included a) ***justifying fielding of tainted candidates with unfounded and baseless reasons like chances of winning, popularity of the person, does good social work, offences not being grave in nature, cases are politically motivated***, b) ***repetition of reasons*** outlined through forms, not just for candidates within a single political party, but also for those contesting on behalf of other parties; and c) ***publication of Format C2 (information with particulars on criminal cases pending against candidates) but not Format C7 (information regarding pending criminal cases along with reasons)***.

A true copy of the reports titled '*Analysis of publication of criminal cases against candidates selected by political parties*' are annexed herewith and marked as ANNEXURE A/3.

- 8) This deliberate act of contempt by political parties of the directions dated 13th February, 2020 and 25th September, 2018 was also brought to the notice of Hon'ble Supreme Court by ADR. It is stated that in its order dated 17th March 2023, the Hon'ble court had directed us to "*pursue its remedies before the Election Commission of India*".

A true copy of the Supreme Court order dated 17th March, 2023 is annexed herewith and marked as ANNEXURE A/4.

- 9) In this backdrop, ADR is seeking strict action to be initiated against the defaulting political parties which had contested 2023 Assembly Elections held in Tripura, Meghalaya, Nagaland and Karnataka, 2022 Assembly elections held in Gujarat, Himachal Pradesh, Uttar Pradesh, Uttarakhand, Goa, Manipur and Punjab and 2021 Assembly Elections held in the States of West Bengal, Tamil Nadu, Kerala, Assam and UT of Puducherry.

- 10) At this juncture, ADR would also like to underline Article 324 of the Indian Constitution that gives sufficient and wide powers to the Election Commission for '*superintendence, direction and control of elections*'. The Supreme Court of India has also held that the Election Commission can take action under special circumstances, in matters where there is no law, or the law is silent. In Association for Democratic Reforms & Ors. vs. Union of India & Anr.; (2002) 5 SCC 29;

"49. It is to be stated that the Election Commission has from time to time issued instructions/orders to meet with the situation where the field is unoccupied by the legislation.....In other words, till the Parliament applied its mind and came forward with appropriate legislation to give effect to the right available to a voter-citizen, the Court felt that the said goal has to be translated into action through the media of Election Commission, which is endowed with 'residuary power' to regulate the election process in the best interests of the electorate...."

- 11) It is also submitted that in **Common Cause (A registered society) Vs. Union of India, AIR 1996, SC 3081**, it was observed by Hon'ble Supreme Court:

"39. Even so, situations may arise which enacted law has not provided for. Legislators are not prophets but pragmatists. So it is that the Constitution has made comprehensive provision in Article 324 to take care of surprise situations- that power itself has to be exercised, not

mindlessly nor mala fide, not arbitrarily nor with partiality but in keeping with the guidelines of the rule of law and not stultifying the Presidential notification nor existing legislation. More is not necessary to specify: less is insufficient to leave unsaid. Article 324, in our view, operates in areas left unoccupied by legislation and the words 'superintendence, direction and control, as well as 'conduct of all elections' are the broadest terms. Myriad maybes, too mystic to be precisely presaged, may call for prompt action to reach the goal of free and fair election. It has been argued that this will create a constitutional despot beyond the pale of accountability; a Frankenstein's monster who may system into elected despotism - instances of such phenomena are the tears of history. To that the retort may be that the judicial branch, at the appropriate stage, with the potency of its benignant power and within the leading strings of 'legal guidelines, can call the bluff, quash the action and bring order into the process. Whether we make a triumph or travesty of democracy depends on the man as much as on the Great National Parchment. Secondly, when a high functionary like the Commissioner is vested with wide powers the law expects him to act fairly and legally. Article 324 is geared to the accomplishment of free and fair elections expeditiously.

- 12) Through this letter Commission's attention is also drawn towards Paragraph 3 of the Supreme Court judgment in **Indian National Congress vs. Institute of Social Welfare 2002 (5) SCC** wherein the Hon'ble court had stated that de-registration of political parties by Election Commission is permitted only under three specific conditions as reproduced under the paragraph below;

"3. However, there are exceptions to the principle stated in paragraph 2 above where the Election Commission is not deprived of its power to cancel the registration. The exceptions are these –

- (a) where a political party has obtained registration by practising fraud or forgery;
- (b) where a registered political party amends its nomenclature of association, rules and regulations abrogating therein conforming to the provisions of Section 29A(5) of the Act or intimating the Election Commission that it has ceased to have faith and allegiance to the Constitution of India or to the principles of socialism, secularism and democracy or it would not uphold the sovereignty, unity and integrity of India so as to comply the provisions of Section 29A(5) of the Act; and
- (c) any like ground where no enquiry is called for on the part of the Commission."

- 13) It is humbly placed before this Hon'ble Commission that the **present situation and repeated disobedience of the Commission's guidelines by the political parties, politicians and candidates contesting elections neither existed nor was envisaged when the aforementioned Supreme Court judgment was passed.** The present situation is equally, if not more, serious given that the Hon'ble Supreme Court as a last warning has already imposed fines on some parties for violating its orders on publication of criminal cases. The current predicament requires immediate intervention by this Commission. At present, Indian democracy is at a critical phase where every manoeuvre adopted by judiciary and the Election Commission to refine the political class seems to be failing. Besides, from a legal point of view, part 2nd of point (b) of the Supreme Court judgment in *Indian National Congress vs. Institute of Social Welfare 2002 (5) SCC* i.e. *"intimating the Election Commission that it has ceased to have faith and allegiance to the Constitution of India or to the principles of socialism, secularism and democracy..."* has a far-reaching impact. The present circumstances rather call for a broad interpretation of the words '*intimating*' and '*democracy*'. '*Intimation*' can be either direct or indirect. Intimation is defined as "*the action of making clear what you think or want without saying it directly, or something that makes something clear in this way*" And political parties have clearly *intimated* the Judiciary, Election Commission and the Citizens about their constant reluctance to reform the system by blatantly giving tickets to the candidates with criminal background in every election. Not only that they have also *intimated* this Commission about their refusal to follow orders dated 25th September, 2018 and 13th February, 2020 in its letter and spirit.
- 14) The act of blatant and wilful disregard of the Supreme Court orders and simultaneous guidelines issued by this Commission on publication of criminal cases against candidates selected by political parties along with reasons for such selection also goes against the spirit of 'democracy' and constitutional propriety as enshrined under the India Constitution. **It must be borne in mind that when political parties are registered with the ECI under Section 29A(5), they are required to bear a true allegiance to the constitution which includes 'democracy' and 'Rule of Law'. Democracy under Constitution indicates a participatory democracy with a level playing field devoid of criminality and money power and therefore, this act of political parties of repeatedly selecting tainted candidates and neglecting the credible, honest and deserving candidates as asked by the Apex Court surely goes against such ethos. This intimation of wilful noncompliance by political parties through their refusal to follow Supreme Court's and Commission's directions is rather direct and deliberate and therefore the only resort left is that this Commission uses its wide powers under Article 324 of the Constitution read with Section 29 (Part IV-A) of the RP Act, 1951 and immediately de-registers these political parties that are found guilty of such failure to**

abide by the lawful instructions of this Commission.

- 15) Furthermore, Para 16A of the Election Symbols (Reservation and Allotment) Order 1968 clearly states that *if the Commission is satisfied on the information in its possession that a political party, either recognized as a National or a State party, has failed or shown defiance by its conduct to observe the provisions of the Model Code of Conduct for Guidance of Political Parties and Candidates; or failed to carry out the lawful directions and instructions given by the Commission to ensure fair and peaceful elections, then the Commission, taking into account all the relevant facts and circumstances of the case and giving the party reasonable opportunity to represent themselves in the cause, can either withdraw or suspend the recognition of the Party.* The Preamble of the Election Symbols (Reservation and Allotment) Order 1968 also mentions that the Election Commission makes such order in consonance with Article 324 of the Constitution, read with Section 29A of the Representation of People's Act, 1951 and Rules 5 and 10 of the Conduct of Election Rules, 1961.
- 16) Consequently, the Commission should exercise its powers under para 16A of the Election Symbols (Reservation and Allotment) Order 1968 by suspending the recognition of the guilty political parties as recognized national and state party in the States of Tripura, Meghalaya, Nagaland and Karnataka, Gujarat, Himachal Pradesh, Uttar Pradesh, Uttarakhand, Goa, Manipur, Punjab, West Bengal, Tamil Nadu, Kerala, Assam and UT of Puducherry as the case may be for the deliberate failure to follow the lawful directions and instructions of the Election Commission and the Hon'ble Supreme Court of India. It may not be out of place to mention that this Commission had utilized its powers under Para 16A of the Election Symbols (Reservation and Allotment) Order, 1968 for the first time on 16th June, 2015 and had **suspended the recognition of** National People's Party, a recognized state party in Meghalaya due to its failure in filing the election expenditure statement of the party. It is therefore, humbly requested that similar action should be taken by the Commission for the incessant failure by the aforementioned political parties.
- 17) Political Parties must realize that these directions and guidelines are mandatory and therefore the compliance is not optional. The fact that there is no law governing political parties and there is no way to penalize them in case of contempt needs to be remedied with the current powers this Commission under Article 324 read with Section 29(A)(5) of the Representation of People Act, 1951 and under Paragraph 16A of the Election Symbols

(Reservation and Allotment) Order, 1968. These powers clearly require compliance by political parties, candidates and politicians to the rules, regulations, conditions and guidelines of this Commission under the said article in order to maintain Rule of law, participatory democracy, discipline, propriety, public accountability and transparency. In the absence of required compliance, the electorate are deprived of their basic right to make an informed choice. **Given the current state of affairs, where all political parties stand united and determined to stall any attempts to bring accountability, transparency, and fairness in our electoral process, it becomes imperative to remind the key duty holders of their role duties in preserving, protecting, and defending the Constitution.**

18) At this juncture, ADR would also like to request the Commission to consider taking following steps in view of powers conferred upon Commission and in the light of '*Participatory democracy, Level playing field and Free and fair elections*':

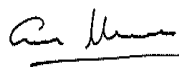
- I. **Show cause notice:** The Election Commission should take note of the current situation and reprimand political parties and politicians for failure to abide by the lawful directions of the Commission, complete lack of will, reprehensible predilection and absence of required laws. A "*show cause notice*" should be sent to those political parties who failed to follow the mandatory directions. In addition, the Commission should also immediately take a strict contempt action against political parties, their office bearers and candidates for blatantly bypassing its 25th September 2018 and 13th February 2020 orders.
- II. **De-registration of Political parties:** The Commission should deregister those political parties who are found guilty of such violation by invoking its powers under Article 324 of the Constitution read with Section 29(A)(5) of the r\RP Act, 1951.
- III. **De-recognition of political parties:** Failure to abide by the lawful directions of the Election Commission and the Hon'ble Supreme Court should be treated as a serious breach under Paragraph 16A of the Election Symbols (Reservation and Allotment) Order, 1968 and therefore, the Election Commission of India should invoke its powers under Paragraph 16A read with Article 324 of the Constitution and suspend or withdraw recognition of a recognized political party for its incessant failure and disobedience of the SC directions.
- IV. **Annual filing of information on criminal antecedents of their Office Bearers:** Under the '*Guidelines and Application Format for Registration of political parties under Section 29A of the Representation of the People Act, 1951 and 'Registration of Political Parties (Furnishing of Additional Particulars) Order, 1992*' Election Commission of India should not only ask for the information regarding criminal antecedents of the Office Bearers only at the time of registration but also ask each

political party to annually file information on criminal antecedents of their Office Bearers. This information should also be made available to the public and should be displayed outside each polling booth during elections

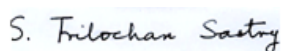
- V. **List of defaulting political parties to be prepared and shared by ECI:** Election Commission of India is expected to implement the 25th September, 2018 and 13th February, 2020 SC orders in its letter and spirit. The Commission should immediately submit a list of such defaulting political parties to the Supreme Court after each election. It should also list out names of such tainted candidates selected by the political parties along with such reasons for such selection. These lists should be religiously prepared and submitted to the Supreme Court after every election and the same should be uploaded on ECI's website for public inspection.
- VI. **Reporting of such contempt to the Supreme Court of India:** The Election Commission should immediately report such default to the Supreme Court during each election. In addition, ECI must ensure that the Supreme Court's directions are being truly implemented by political parties by taking concrete steps in the light of reasons given by political parties in Form C7 and C8, diligent publication of reasons in newspapers, T.V channels, party website etc and strict and constant reminders by ROs to the defaulters.
- VII. **Imposing fine:** The Commission should also consider *imposing a fine* for the said violation.

We are sanguine that the Election Commission will take firm and swift action in this regard and uphold the faith of the public in the free and fair elections and the rule of law.

Yours sincerely,



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ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/4/2020/SDR/Vol.III

Dated: 6th March, 2020

To

The President/General Secretary/Chairperson/Convener,
of all recognized National and State Political Parties.

Sub: Order dated 13th February, 2020 of Hon'ble Supreme Court in Contempt Petition (C) No. 2192 of 2018 in WP(C) No. 536 of 2011 - Requirement of publishing details regarding candidates with pending criminal cases- regarding.

Sir/Madam,

I am directed to bring to your notice of the Hon'ble Supreme Court's Order dated 13.02.2020 in Contempt Petition (C) No. 2192 of 2018 in WP(C) No. 536 of 2011.

2. In this connection your attention is drawn to the Commission's instructions contained in letters no. 3/4/2017/SDR/Vol.II & 3/4/2019/SDR/Vol.I dated 10th October, 2018 and 19th March, 2019 respectively in compliance of the Hon'ble Supreme Court's judgement dated 25th September, 2018, in *Public Interest Foundation & Ors. V. Union of India & Anr.* [WP (Civil) No. 536 of 2011].

3. The Hon'ble Supreme Court in its Order dated 13.02.2020 in Contempt Petition (C) No. 2192 of 2018 in WP(C) No. 536 of 2011, referred to above, has given the following directions: -

"4. We have also noted that the political parties offer no explanation as to why candidates with pending criminal cases are selected as candidates in the first place. We therefore issue the following directions in exercise of our constitutional powers under Articles 129 and 142 of the Constitution of India:

(1) It shall be mandatory for political parties (at the Central and State election level) to upload on their website detailed information regarding individuals with pending criminal cases (including the nature of the offences, and relevant particulars such as whether charges have been framed, the concerned Court, the case number etc.) who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates.

(2) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere "winnability" at the polls.

(3) This information shall also be published in :

(a) One local vernacular newspaper and one national newspaper;

(b) On the officials social media platforms of the political party, including Facebook & Twitter.

(4) These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.

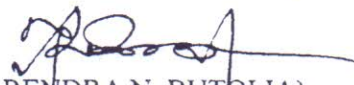
(5) The political party concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.

(6) If a political party fails to submit such compliances report with the Election Commission, the Election Commission shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as being in contempt of this Court's orders/directions."

4. In pursuance of the directions given by the Hon'ble Supreme Court in its Order dated 13.02.2020 and in addition to the Commission's earlier instructions dated 10th October, 2018 and 19th March, 2019, the Commission, after due consideration has directed that all political parties, that set up candidates with criminal antecedents, either pending cases or cases of past conviction shall scrupulously follow each of the above directions in all future elections to the Houses of Parliament and State Legislatures. Information regarding individuals with criminal cases, who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates shall be published by the political party in the newspapers, social media platform and website of the party in the enclosed **Format C-7 within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.**

5. A compliance report in the enclosed **Format C-8** shall be sent to the Commission within **72 hours of the selection of the candidate.**
6. The party may note that failure to abide by the abovementioned directions will render the party liable to contempt proceedings before the Hon'ble Supreme Court.
7. It is clarified that failure to abide by the above directions will also be treated as failure to follow a lawful direction of the Commission for the purposes of Paragraph-16A of the Elections Symbols (Reservation & Allotment) Order, 1968.

Yours faithfully,


(NARENDRA N. BUTOLIA)
PRINCIPAL SECRETARY

Copy to: -The Chief Electoral Officers of all States and UTs with the request that a copy of this letter may be sent to all registered political parties with headquarters in the State/UT including the State Units of the recognized National and State Parties.

Format C-7

(for political parties to publish in
the newspapers, social media platforms
& website of the party)

Information regarding individuals with pending criminal cases, who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates

(As per the Commission's directions issued in pursuance of the Order dated 13.02.2020 of the Hon'ble Supreme Court in contempt petition(C) no. 2192 of 2018 in WP(C) no. 536 of 2011)

Name of Political Party: _____

***Name of the Election:** _____

Name of State/UT: _____

(1) Name of the Constituency-.....

Name of the candidate-.....

Sl.no.		
1.	Criminal antecedents	
	a.	Nature of the offences
	b.	Case no.
	c.	Name of the Court
	d.	Whether charges have been framed or not (Yes/No)
	e.	Date of conviction, if any
	f.	Details of punishment undergone, if any
	g.	Any other information required to be given
2.	The reasons for the selection of the candidate. Selection shall be with reference to the qualifications, achievements and merit of the candidate, and not mere "winnability" at the polls (not more than 100 words)	
3.	Reasons as to why other individuals without criminal antecedents could not be selected as candidates (not more than 100 words)	

(2) Name of the Constituency-.....

Name of the candidate-.....

.....and so on

* In the case of election to Council of States or States or election to Legislative Council by MLAs, mention the election concerned in place of name of Constituency.

Signature of office bearer of the Political Party
Name and designation.....

Note:-

- (1) Political parties (at the Central and State election level) shall upload on their website detailed information regarding individuals with pending criminal cases (including the nature of the offences, and relevant particulars such as whether charges have been framed, the concerned Court, the case number etc.) who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates.
- (2) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere "winnability" at the polls.
- (3) This information shall also be published in:
 - (a) One local vernacular newspaper and one national newspaper;
 - (b) On the official social media platforms of the political party, including Facebook & Twitter.
- (4) The matter in newspapers shall be published in font size of at least 12.
- (5) The above information shall be published State wise for each State/UT.
- (6) **These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.**
- (7) **The political party concerned shall then submit a report of compliance in Format C-8 with the Election Commission within 72 hours of the selection of the said candidate.**

Format C-8

Report of political party as required under the Commission's directions issued in pursuance of the Order dated 13-02-2020 of Hon'ble Supreme Court in Contempt Petition(C) No. 2192 of 2018 in WP (C) No. 536 of 2011.

Name of political party : _____

Details of Social Media Accounts of the party: (i)

(Facebook, Twitter etc.) (ii)

(iii)

Name of Election: _____

Gen Election/ Bye –election to Lok Sabha/Leg Assembly/Biennial election/ Bye election to Council of States/Leg Council

(Write the appropriate alternative)

Name of State: _____

It is certified that _____ (name of political party) has published detailed information regarding the persons with pending criminal cases in the Format prescribed by the Commission (Format C-7) as per the directions in the Commission's letter No. _____, dated _____ in the following media:

Sl.no.		Date of publication & cost of publication to be mentioned in column below	
		Date	Cost
1.	One National Newspaper (copy to be furnished)		
2.	One Local Vernacular Newspaper (copy to be furnished)		
3.	Social Media Platforms of the party (print to be furnished)		

4.	Website of the party (printout of the material enclosed)		
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Declaration

It is declared that full information, explanation and details have been published in respect of each of the persons with pending cases who have been selected to be the candidates of the party in the abovementioned election, as per the directions in the Order dated 13-02-2020 of the Hon'ble Supreme Court referred to above, and nothing has been concealed.

Place:

Signature of office bearer of the Political Party

Name and designation.....

Date:

(seal of the Party)

Note:-This report shall be furnished at least two weeks before the date on which nomination is proposed to be filed or within 48 hours of selection of the candidate, whichever is earlier.

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/4/2017/SDR/Vol.II

Dated: 10th October, 2018

To,

The Chief Electoral Officers of
All States and Union Territories.

**Sub:- (i) Supreme Court's Judgment on the petition regarding people
with criminal antecedents contesting elections;**

(ii) Amendments in Form-26 (Format of affidavit by candidates).

Sir/Madam,

The candidates at all elections are required to file affidavit in Form-26, along with nomination paper, declaring information about criminal cases, assets, liabilities and educational qualifications. Form-26 has now been amended vide Ministry of Law & Justice Notification No. H.11019(4)/2018-Leg.II, dated 10th October, 2018. The amendments made in Form-26 are in pursuance of the directions in the judgements of the Hon'ble Supreme Court in Writ Petition(C) No. 784 of 2015 (Lok Prahari Vs. Union of India & Others) and Writ Petition (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr.). A copy of the said notification along with a copy of the updated Form-26 is enclosed herewith. The candidates are now required to file the affidavit in the amended Form-26.

2. In the judgement in Writ Petition (Civil) No. 536 of 2011, the Hon'ble Supreme Court has, inter alia, given the following directions:-

- " (i) Each contesting candidate shall fill up the form as provided by the Election Commission and the form must contain all the particulars as required therein.
- (ii) It shall state, in bold letters, with regard to the criminal cases pending against the candidate.
- (iii) If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.

- (iv) The concerned political party shall be obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.
- (v) The candidate as well as the concerned political party shall issue a declaration in the widely circulated newspapers in the locality about the antecedents of the candidate and also give wide publicity in the electronic media. When we say wide publicity, we mean that the same shall be done at least thrice after filing of the nomination papers."

3. In pursuance of the abovementioned judgement, the Commission, after due consideration, has given the following directions to be followed by candidates at elections to the Houses of Parliament and Houses of State Legislatures who have criminal cases against them, either pending cases or cases of conviction in the past, and to the political parties that set up such candidates :-

(a) Candidates at elections to the House of the People, Council of States, Legislative Assembly or Legislative Council who have criminal cases against them – either pending cases or cases in which candidate has been convicted, shall publish a declaration about such cases, for wide publicity, in newspapers with wide circulation in the constituency area. This declaration is to be published in **Format C-1** attached hereto, at least on three different dates from the day following the last date for withdrawal of candidatures and upto two days before the date of poll. The matter should be published in font size of at least 12 and should be placed suitably in the newspapers so that the directions for wide publicity are complied with in letter and spirit.

(Illustration: If the last date for withdrawal is 10th of the Month and poll is on 24th of the Month, the publishing of declaration shall be done between 11th and 22nd of that Month).

(b) All such candidates with criminal cases are also required to publish the above declaration on TV channels on three different dates during the abovementioned period. But, in the case of the declaration in TV Channels, the same should be completed before the period of 48 hours ending with the hour fixed for conclusion of poll.

(c) In the case of all candidates who have criminal cases as per the declarations in Items 5 and 6 of Form-26, the Returning Officer shall give a written reminder about the directions herein for publishing declaration about the criminal cases in newspapers and TV channels for wide publicity. A standard format for such reminder to the candidates is annexed as **Format C-3**. The candidates shall submit the copies of newspapers in which their declaration in this regard was published to the District Election Officer, along with their account of election expenses.

(c) In the case of candidates with criminal cases set up by political parties, whether recognized parties or registered un-recognized parties, such candidates are required to declare before the Returning Officer concerned that they have informed their political party about the criminal cases against them. Provision for such declaration has been made in Form-26 in the newly inserted Item (6A).

4. The Political Parties – recognized parties and registered un-recognised parties, which set up candidates with criminal cases, either pending cases or cases of past conviction, are required to publish declaration giving details in this regard on their website as well as in TV channels and newspapers having wide circulation in the State concerned. This declaration by political parties is to be published in **Format C-2**, annexed hereto. Publishing of the declaration in newspapers and TV channels is required to be done atleast on three different dates during the period mentioned in Para-2(a) above. In the case of TV channels, it shall be ensured that the publishing should be completed before the period of 48 hours ending with the hour fixed for conclusion of poll for the election. All such political parties shall submit a report to the Chief Electoral Officer of the State concerned stating that they have fulfilled the requirements of these directions, and enclosing therewith the paper cuttings containing the declarations published by the party in respect of the State/UT concerned. This shall be done within 30 days of completion of

election. Thereafter, within the next 15 days, the Chief Electoral Officer should submit a report to the Commission confirming compliance by the parties concerned, and pointing out cases of defaulters, if any.

5. It may also be noted that the provisions for the additional affidavit in respect of dues against Govt. accommodation, if any, that may have been allotted to the candidates, have now been incorporated in Form-26 itself under Item (8) relating to liabilities to Public Financial Institutions and Govt. Therefore, the candidates shall give the requisite declaration/particulars in this regard in Item (8) of Form-26. Accordingly, the candidates are now not required to file the additional affidavit prescribed under the Commission's Order No. 509/11/2004-JS-I, dated 3rd February, 2016, as the provisions are now part of Form-26 itself.

6. This letter may be circulated to all DEOs, ROs in the State/Union Territory for necessary action on their part. This shall also be circulated to all the political parties based in the State, i.e. the State Units of the recognized Parties and recognized State parties of other States and all registered un-recognized political parties with headquarters based in your State/Union Territory, with instructions to take note of the above directions and the amendments in Form-26.

7. Please acknowledge receipt and confirm action taken.

Yours faithfully,



(K.F. WILFRED)
Sr. PRINCIPAL SECRETARY

Format C-1

(for candidate to publish in Newspapers, TV)

Declaration about criminal cases

(As per the judgment dated 25th September, 2018, of Hon'ble Supreme Court in WP (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr.)

Name and address of candidate: _____

Name of political party: _____
(Independent candidates should write "Independent" here)

Name of Election : _____

*Name of Constituency: _____

I _____ (name of candidate), a candidate for the abovementioned election, declare for public information the following details about my criminal antecedents:

Sl. No.	Pending criminal cases			Details about cases of conviction for criminal offences	
	Name of Court	Case No. and status of case	Section(s) of Acts concerned and brief description of offence(s)	Name of Court & date(s) of order(s)	Description of offence(s) & punishment imposed

*In the case of election to Council of States or election to Legislative Council by MLAs, mention the election concerned in place of name of constituency.

*Note: (i) Details should be given separately for each case in separate rows.
(ii) The matter in newspapers should be in font size of atleast 12.*

Format C-2

(For political party to publish in website, newspapers, TV)

Declaration about criminal antecedents of candidates set up by the party

(As per the judgment dated 25th September, 2018 of Hon'ble Supreme Court in WP (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr.)

Name of Political Party: _____

* Name of Election : _____

Name of State/ UT : _____

1.	2	3	4		5.	
Sl. No.	Name of candidate	Name of constituency	Pending criminal cases		Details about cases of conviction for criminal offences	
			Name of Court, case No. & status of the case(s)	Sections of the Acts concerned & brief description of offence(s)	Name of Court & date(s) of order(s)	Description of offence(s) & punishment imposed

*In the case of election to Council of States or election to Legislative Council by MLAs, mention the election concerned in place of name of constituency.

Note:- (i) The above information shall be published State wise for each State/UT.

(ii) The matter in newspapers should be published in font size of at least 12.

Office of Returning Officer

Name of Constituency : _____

Name of State : _____

Name of Election : _____

It is informed that as per the judgment dated 25th September, 2018, of Hon'ble Supreme Court, in WP (Civil) No. 536 of 2011 (Public Interest Foundation & Ors. Vs. Union of India & Anr., and the directions in the Commission's letter No. 3/ER/2018/SDR , dated 10-10-2018, all candidates with criminal cases – either pending cases or cases of conviction in the past, are required to publish declaration regarding such criminal cases in newspapers and TV channels on three occasions during the period from the day following the last date for withdrawal of candidature and two days before the date of poll. Publishing declaration in TV channels should be completed before the period of 48 hours ending with the hour fixed for conclusion of poll.

Since you, Sh/Smt./Ms. _____ (mention the name of the candidate), a candidate nominated for the abovementioned election, have declared information about criminal cases in Items 5/6 of Form-26, you are required to publish information in newspapers having wide circulation in the constituency area and on TV channels on atleast three occasions each as mentioned above. The Format for publishing the information is enclosed herewith. It is also informed that copies of the newspapers publishing the information about criminal cases should be submitted to the District Election Officer along with the account of election expenses under Section 78 of Representation of the People Act, 1951.

Date: _____ Signature _____

Name of the RO/ARO _____

Signature of Candidate _____

Note: One copy of this should be given to candidate and one copy retained with RO.

No.H-11019/04/2018-Leg.II
Government of India
Ministry of Law and Justice
Legislative Department

BY Special Messenger

New Delhi, the 10th October, 2018

To

The Manager
Government of India Press,
Mayapuri
Ring Road, New Delhi

Subject: Publication of Notification in the Gazette of India, Extraordinary, Part II Section 3, Sub-section (ii) dated 10/10/2018.

Sir,

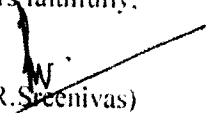
I am directed to forward herewith a notification bearing No.H-11019/04/2018-Leg.II dated 10/10/2018 (in English and Hindi) to be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) on 10/10/2018.

2. Soft copy of the notification has been e-mailed at may-giprr@nic.in and it is certified that the soft copy and the hard copy of the notification is one and the same.

3. It is requested that 10 copies of the aforesaid notification may please be sent to this Department as soon as the same is published.

Encl: As above

Yours faithfully,


(R. Sreenivas)
Additional Legislative Council
Tele: 23384603

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART II, SECTION 3, SUB-SECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the October, 2018.

S.O. -----(E).— In exercise of the powers conferred by sub-section (3) of section 77 read with section 169 of the Representation of the People Act, 1951 (43 of 1951), the Central Government, after consulting the Election Commission, hereby makes the following rules further to amend the Conduct of Elections Rules, 1961, namely:—

1. (1) These rules may be called the Conduct of Elections (Amendment) Rules, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Conduct of Elections Rules, 1961 (hereinafter referred to as the principal rules), in rule 90, after serial number 28 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

1.	2.	3.	4.
“29.	Telangana	70,00,000	28,00,000.”.

3. In Form 26 of the principal rules,—

(A) in PART A—

(I) for paragraphs (5) and (6), the following paragraphs shall be substituted, namely:—

“(5) Pending criminal cases.—

(i) I declare that there is no pending criminal case against me.
(Tick this alternative, if there is no criminal case pending against the Candidate and write NOT APPLICABLE against alternative (ii) below)

OR

h

(ii) The following criminal cases are pending against me:

(If there are pending criminal cases against the candidate, then tick this alternative and score off alternative (i) above, and give details of all pending cases in the Table below)

Table

(a)	FIR No. with name and address of Police Station concerned			
(b)	Case No. with Name of the Court			
(c)	Sections of concerned Acts/Codes involved (give no. of the section, e.g. Section of IPC, etc.).			
(d)	Brief description of offence			
(e)	Whether charges have been framed (mention YES or NO)			
(f)	If answer against item (e) above is YES, then give the date on which charges were framed			
(g)	Whether any Appeal/ Application for revision has been filed against the proceedings (Mention YES or NO)			

(6) Cases of conviction.—

(i) I declare that I have not been convicted for any criminal offence.
(Tick this alternative, if the candidate has not been convicted and write NOT APPLICABLE against alternative (ii) below)

OR

(ii) I have been convicted for the offences mentioned below:

(If the candidate has been convicted, then tick this alternative and score off alternative (i) above, and give details in the Table given below)

1
w

Table

(a)	Case No.			
(b)	Name of the Court			
(c)	Sections of Acts/Codes involved (give no. of the Section, e.g. Sectionof IPC, etc..			
(d)	Brief description of offence for which convicted			
(e)	Dates of orders of conviction			
(f)	Punishment imposed			
(g)	Whether any Appeal has been filed against conviction order (Mention YES or No)			
(h)	If answer to item (g) above is YES, give details and present status of appeal			

(6A) I have given full and up-to-date information to my political party about all pending criminal cases against me and about all cases of conviction as given in paragraphs (5) and (6).

[candidates to whom this item is not applicable should clearly write NOT APPLICABLE IN VIEW OF ENTRIES IN PARAGRAPHS 5(i) and 6(i) above.]

Note:

1. Details should be entered clearly and legibly in **BOLD** letters
2. Details to be given separately for each case under different columns against each item.
3. Details should be given in reverse chronological order, i.e., the latest case to be mentioned first and backwards in the order of dates for the other cases.
4. Additional sheet may be added if required.
5. Candidate is responsible for supplying all information in compliance of the Hon'ble Supreme Court's judgment in W.P (C) No. 536 of 2011.";

1


(II) in paragraph (7), under the heading A. "Details of movable assets" for "Note 4", the following Note shall be substituted, namely:—

'Note 4: "Dependent" means parents, son(s), daughter(s) of the candidate or spouse and any other person related to the candidate whether by blood or marriage, who have no separate means of income and who are dependent on the candidate for their livelihood.';

(III) in paragraph (8), in the Table, for serial numbers (ii) to (iv) and the entries relating thereto, the following serial numbers and the entries shall respectively be substituted, namely:—

"Table

(ii)	Government dues: Dues to Departments dealing with Government accommodation	<p>(A) Has the Deponent been in occupation of accommodation provided by the Government at any time during the last ten years before the date of notification of the current election?</p> <p>(B) If answer to (A) above is YES, the following declaration may be furnished, namely:—</p> <p>(i) The address of the Government accommodation: ----- ----- -----</p> <p>(ii) There is no dues payable in respect of above Government accommodation, towards— (a) rent; (b) electricity charges; (c) water charges; and (d) telephone charges as on ----- (date)</p> <p>[the date should be the last date of the third month prior to the month in which the election is notified or any date thereafter].</p> <p>Note— "No Dues Certificate" from the agencies concerned in respect of rent, electricity charges, water charges and telephone charges for the above Government accommodation should be submitted.</p>	
------	---	---	--



(iii)	Dues to Department dealing with Government transport (including aircrafts and helicopters)					
(iv)	Income tax dues					
		Self	Spouse	Dependent -1	Dependent - 2	Dependent - 3
(v)	GST Dues					
(vi)	Municipal / Property tax dues					
(vii)	Any other dues					
(viii)	Grand total of all Government dues					
(ix)	Whether any other liabilities are in dispute, if so, mention the amount involved and the authority before which it is pending.”;					


(IV) after paragraph (9), the following paragraphs shall be inserted, namely:–

“(9A) Details of sources of income:

- (a) Self -----
- (b) Spouse -----
- (c) Source of income, if any, of dependents, -----

(9B) Contracts with appropriate Government and any public company or companies–

- (a) details of contracts entered by the candidate -----
- (b) details of contracts entered into by spouse -----
- (c) details of contracts entered into by dependents -----
- (d) details of contracts entered into by Hindu undivided family or trust in which the candidate or spouse or dependents have interest -----

- 
- (e) details of contracts, entered into by Partnership Firms in which candidate or spouse or dependents are partners -----

- (f) details of contracts entered into by private companies in which candidate or spouse or dependants have share -----
-----";

(B) in PART – B, in paragraph 11 against serial number 5 and 6, for the entries under column 2, the following entries shall be substituted, namely:–

"5.	Total number of pending criminal cases	
6.	Total number of cases in which convicted."	

[F.No. H.11019(4)/2018-Leg.II]



(Dr. Reeta Vasishta)

Additional Secretary to the Government of India

Note: The principal rules were published in the Gazette of India vide number S.O. 859, dated the 15th April, 1961 and were last amended vide number S.O. 1133(E), dated the 7th April, 2017.

FORM 26
(See rule 4A)

Please affix your
recent passport
size photograph
here

**AFFIDAVIT TO BE FILED BY THE CANDIDATE ALONGWITH
NOMINATION PAPER BEFORE THE RETURNING OFFICER FOR ELECTION
TO (NAME OF THE HOUSE)
FROM.....CONSTITUENCY (NAME OF THE
CONSTITUENCY)**

PART-A

I.....**son/daughter/wife of
..... Aged.....years, resident of
.....
..... (mention full postal address), a candidate at the above election, do hereby
solemnly affirm and state on oath as under:-

(1) I am a candidate set up by

(**name of the political party)/**am contesting as an Independent candidate.

(**strike out whichever is not applicable)

(2) My name is enrolled in..... (Name of the constituency
and the State), at Serial No.....in Part No.....

(3) My contact telephone number(s) is/are.....
and my email id (if any) is

and my social media account(s) (if any) is/are

(i).....

(ii).....

(iii).....

(4) Details of Permanent Account Number (PAN) and status of filing of Income Tax return:

Sl. No.	Names	PAN	The financial year for which the last Income-tax return has been filed	Total income shown in Income-tax return (in Rupees)
1.	Self			
2.	Spouse			
3.	Dependent-1			
4.	Dependent-2			
5.	Dependent-3.....			

(5) Pending criminal cases

- (i) **I declare that there is no pending criminal case against me.**
(Tick this alternative if there is no criminal case pending against the Candidate and write NOT APPLICABLE against alternative (ii) below)

OR

- (ii) **The following criminal cases are pending against me:**
(If there are pending criminal cases against the candidate, then tick this alternative and score off alternative (i) above, and give details of all pending cases in the Table below)

Table

(a)	FIR No. With name and address of Police Station concerned			
(b)	Case No. with Name of the Court			

(c)	Section(s) of concerned Acts/Codes involved (give no. of the Section, e.g. Sectionof IPC, etc.).			
(d)	Brief description of offence			
(e)	Whether charges have been framed (mention YES or NO)			
(f)	If answer against (e) above is YES, then give the date on which charges were framed			
(g)	Whether any Appeal/ Application for revision has been filed against the proceedings (Mention YES or NO)			

(6) Cases of conviction

(i) I declare that I have not been convicted for any criminal offence.

(Tick this alternative, if the candidate has not been convicted and write NOT APPLICABLE against alternative (ii) below)

OR

(ii) I have been convicted for the offences mentioned below:

(If the candidate has been convicted, then tick this alternative and score off alternative (i) above, and give details in the Table below)

Table

(a)	Case No.			
(b)	Name of the Court			
(c)	Sections of Acts/Codes involved <i>(give no. of the Section, e.g. Sectionof IPC, etc.).</i>			
(d)	Brief description of offence for which convicted			
(e)	Dates of orders of conviction			
(f)	Punishment imposed			
(g)	Whether any Appeal has been filed against conviction order <i>(Mention YES or No)</i>			

(h)	If answer to (g) above is YES, give details and present status of appeal			
-----	--	--	--	--

(6A) I have given full and up-to-date information to my political party about all pending criminal cases against me and about all cases of conviction as given in paragraphs (5) and (6).

[candidates to whom this Item is not applicable should clearly write NOT APPLICABLE IN VIEW OF ENTRIES IN 5(i) and 6 (i), above]

Note:

- 1. Details should be entered clearly and legibly in BOLD letters**
- 2. Details to be given separately for each case under different columns against each item.**
- 3. Details should be given in reverse chronological order, i.e., the latest case to be mentioned first and backwards in the order of dates for the other cases.**
- 4. Additional sheet may be added if required.**
- 5. Candidate is responsible for supplying all information in compliance of Hon'ble Supreme Court's judgment in W.P (C) No. 536 of 2011.**

(7) That I give herein below the details of the assets (movable and immovable etc.) of myself, my spouse and all dependents:

A. Details of movable assets:

- Note: 1. Assets in joint name indicating the extent of joint ownership will also have to be given.
- Note: 2. In case of deposit/Investment, the details including Serial Number, Amount, date of deposit, the scheme, Name of the Bank/Institution and Branch are to be given
- Note: 3. Value of Bonds/Share Debentures as per current market value in Stock exchange in respect of listed companies and as per books in case of non-listed companies should be given.
- Note: 4. 'Dependent' means parents, son(s), daughter(s) of the candidate or spouse and any other person related to the candidate whether by blood or marriage, who have no separate means of income and who are dependent on the candidate for their livelihood.
- Note: 5. Details including amount is to be given separately in respect of each investment

Sl.No.	Description	Self	Spouse	Dependent-1	Dependent-2	Dependent-3
(i)	Cash in hand					
(ii)	Details of deposit in Bank accounts (FDRs, Term Deposits and all other types of deposits including saving accounts), Deposits					

	with Financial Institutions, Non-Banking Financial Companies and Cooperative societies and the amount in each such deposit.					
(iii)	Details of investment in Bonds, debentures/shares and units in companies/Mutual funds and others and the amount.					
(iv)	Details of investment in NSS, Postal Saving, Insurance policies and investment in any Financial instruments in Post office or Insurance Company and the amount.					
(v)	Personal loans/advance given to any person or entity including firm, company, Trust etc., and other receivables from debtors and the amount.					
(vi)	Motor Vehicles/ Aircrafts/Yachts/Ships (Details of Make, registration number etc. year of purchase and amount)					
(vii)	Jewellery, bullion and valuable thing(s) (give details of weight and value)					
(viii)	Any other assets such as value of claims/interest					
(ix)	Gross Total Value					

B. Details of Immovable Assets:

Note: 1. Properties in joint ownership indicating the extent of joint ownership will also have to be indicated.

Note: 2. Each land or building or apartment should be mentioned separately in this format

S. No.	Description	Self	Spouse	Dependent-1	Dependent-2	Dependent-3
(i)	Agricultural Land Location(s) Survey number(s)					
	Area (total measurement in acres)					
	Whether inherited property (Yes or No)					
	Date of purchase in case of self-acquired property					
	Cost of Land (in case of purchase) at the time of purchase					
	Any investment on the land by way of development, construction etc.					
	Approximate current market value					
(ii)	Non-Agricultural Land: Location(s) Survey number(s)					
	Area (total measurement in sq.ft.)					
	Whether inherited property (Yes or No)					
	Date of purchase in case of self-acquired property					
	Cost of Land (in case of purchase) at the time of purchase					
	Any investment on the land by way of development, construction etc.					
	Approximate current market value					
(iii)	Commercial Buildings (including apartments) -Location(s) -Survey number(s)					
	Area (total					

	measurement in sq.ft.)					
	Built-up Area (total measurement in sq.ft.)					
	Whether inherited property (Yes or No)					
	Date of purchase in case of self-acquired property					
	Cost of property (in case of purchase) at the time of purchase					
	Any investment on the property by way of development, construction etc.					
	Approximate current market value					
(iv)	Residential Buildings (including apartments): -Location(s) -Survey number(s)					
	Area (total measurement in sq.ft.)					
	Built up area (Total measurement in sq.ft.)					
	Whether inherited property (Yes or No)					
	Date of purchase in case of self-acquired property					
	Cost of property (in case of purchase) at the time of purchase					
	Any investment on the land by way of development, construction etc.					
	Approximate current market value					
(v)	Others (such as interest in property)					
(vi)	Total of current market value of (i) to (v) above					

(8) I give herein below the details of liabilities/dues to public financial institutions and government:-

(Note: please give separate details of name of bank, institution, entity or individual and amount before each item)

S. No.	Description	Self	Spouse	Dependent-1	Dependent-2	Dependent-3
(i)	Loan or dues to Bank/financial institution(s) Name of the Bank or financial Institution, Amount outstanding, Nature of Loan					
	Loan or dues to any other individuals/entity other than mentioned above Name(s), Amount outstanding, nature of loan					
	Any other liability					
	Grand total of liabilities					
(ii)	Government dues: Dues to Departments dealing with Government accommodation	<p>(A) Has the Deponent been in occupation of accommodation provided by the Government at any time during the last ten years before the date of notification of the current election?</p> <p>(B) If answer to (A) above is YES, the following declaration may be furnished namely: -</p> <p>(i) The address of the Government accommodation:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>(ii) There is no dues payable in respect of above Government accommodation, towards-</p> <p>(a) rent;</p> <p>(b) electricity charges;</p> <p>(c) water charges; and</p> <p>(d) telephone charges as on _____ (date)</p> <p>[the date should be the last date of the third month prior to the month in which the election is notified or any date thereafter].</p> <p>Note -- ‘No Dues Certificate’ from the agencies concerned in respect of rent, electricity charges, water charges and telephone charges for the above Government accommodation should be submitted.</p>				YES/NO (Pl. tick the appropriate alternative)

(iii)	Dues to department dealing with Government transport (including aircrafts and helicopters)					
(iv)	Income tax dues					
		Self	Spouse	Dependent-1	Dependent-2	Dependent-3
(v)	GST Dues					
(vi)	Municipal/Property tax dues					
(vii)	Any other dues					
(viii)	Grand total of all Government dues					
(ix)	Whether any other liabilities are in dispute, if so, mention the amount involved and the authority before which it is pending.					

(9) Details of profession or occupation:

(a) Self.....

(b) Spouse.....

(9A) Details of sources of income:

(a) Self.....

(b) Spouse.....

(c) Source of income, if any, of dependents,

(9B) Contracts with appropriate Government and any public company or companies

(a) details of contracts entered by the candidate

(b) details of contracts entered into by spouse.....

(c) details of contracts entered into by dependents.....

(d) details of contracts entered into by Hindu Undivided Family or trust in which the candidate or spouse or dependents have interest....

(e) details of contracts, entered into by Partnership Firms in which candidate or spouse or dependents are partners.....

(f) Details of contracts entered into by private companies in which candidate or spouse or dependents have share.....

(10) My educational qualification is as under:-

.....
(Give details of highest School/University education mentioning the full form of the certificate/diploma/degree course, name of the School/College/University and the year in which the course was completed.)

PART-B

(11) ABSTRACT OF THE DETAILS GIVEN IN (1) TO (10) OF PART-A:

1.	Name of the candidate	Sh./Smt./Kum.				
2.	Full postal address					
3.	Number and name of the constituency and State					
4.	Name of the political party which set up the candidate (otherwise write 'Independent')					
5.	Total number of pending criminal cases					
6	Total number of cases in which convicted					
7.		PAN of	Year for which last income Tax return filed	Total income shown		
	(a) Candidate					
	(b) Spouse					
	(c) Dependents					
8.	Details of Assets and Liabilities in Rupees					
	Description	Self	Spouse	Dependent-I	Dependent-II	Dependent-III
A.	Moveable Assets (Total value)					
B.	Immovable Assets					
	I.	Purchase Price of self-acquired immovable property				
	II.	Development/ construction cost of immovable property after purchase (if applicable)				
	III.	Approximate Current market price— (a) self-acquired assets (Total Value) (b) inherited assets (Total Value)				
9.	Liabilities					

	(i)	Government dues (Total)					
	(ii)	Loans from Bank, Financial Institutions and others (Total)					
10.		Liabilities that are under dispute					
	(i)	Government dues (Total)					
	(ii)	Loans from Bank, Financial Institutions and others (Total)					
11.	Highest educational qualification: (Give details of highest School/University education mentioning the full form of the certificate/diploma/degree course, name of the School/College/University and the year in which the course was completed.)						

VERIFICATION

I, the deponent, above named, do hereby verify and declare that the contents of this affidavit are true and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed there from. I further declare that:-

(a) there is no case of conviction or pending case against me other than those mentioned in items 5 and 6 of Part A and B above;

(b) I, my spouse, or my dependents do not have any asset or liability, other than those mentioned in items 7 and 8 of Part A and items 8, 9 and 10 of Part B above.

Verified at.....this theday of.....

DEPONENT

- Note: 1. Affidavit should be filed latest by 3.00 PM on the last day of filing nominations.
 Note: 2. Affidavit should be sworn before an Oath Commissioner or Magistrate of the First Class or before a Notary Public.
 Note: 3. All column should be filled up and no column to be left blank. If there is no information to furnish in respect of any item, either “Nil” or “Not applicable” as the case may be, should be mentioned,
 Note: 4. The Affidavit should be either typed or written legibly and neatly.

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION
CONTEMPT PETITION (CIVIL) NO. 656 OF 2020
IN
CONTEMPT PETITION (CIVIL) NO.2192 OF 2018
IN
WRIT PETITION (CIVIL) NO.536 OF 2011

BRAJESH SINGH **... PETITIONER**
VERSUS
SUNIL ARORA & ORS. **...RESPONDENTS**

WITH
M.A. DIARY NO.2680 OF 2021
IN
CONTEMPT PETITION (CIVIL) No. 2192 of 2018
IN
WRIT PETITION (CIVIL) NO. 536 OF 2011

J U D G M E N T

Per Court

1. A contempt petition has been filed in this Court on 06.11.2020, by the Petitioner herein, who has brought to the notice of this Court the flouting of its directions given *vide* Order dated 13.02.2020. The Petitioner describes himself in the said petition as follows:

Signature Not Verified
Digitally signed by
Jayant Kumar Arora
Date: 2024.08.11
13:20:53 IST
Reason: []

“That the Petitioner above named is an Advocate registered with Bar Council of Delhi and presently practicing in the Delhi and basically belonging from the Nalanda District of the State

of Bihar. As an Officer of the Court and also as a law abiding citizen of this Country the Petitioner has self-obligated duty to apprise this Hon'ble Court regarding wilful disobedience of its order if happening somewhere and especially in the State of Petitioner itself and also where the Said Order is related with the large interest of the people who are going to exercise their Constitutional Right "Right to Vote".

2. This Court issued notice on the said contempt petition on 11.02.2021 and recorded that the Election Commission of India [hereinafter referred to as "ECI"] has filed its report in compliance with the Order dated 13.02.2020. Vide a subsequent Order dated 17.03.2021, this Court had directed that Shri K.V. Viswanathan, learned Senior Advocate, be appointed to assist this Court as Amicus Curiae. Shri Viswanathan has since filed a detailed list of dates and submissions.
3. This contempt petition arises out of elections that were held to the Bihar Legislative Assembly in October/November, 2020. The report of the ECI first sets out extracts from our Order dated 13.02.2020 and then brings to the notice of the Court that:

"In compliance of above directions, the Commission issued directions to the President/ General Secretary/ Chairperson/ Convenor of all recognized National and State Political Parties *vide* Letter No. 3/4/2020/SDR/Vol.III dated 06.03.2020. Instructions in this regard were also issued to the Chief Electoral Officers of all States and Union Territories *vide* Letter No. 3/4/2020/SDR-Vol.III dated 19.03.2020 and Letter No. 3/4/2019/ SDR-Vol.IV dated 16.09.2020. Furthermore, the Commission also published "the Guidelines on Publicity of Criminal Antecedents by Political Parties and Candidates" in August, 2020 encapsulating all the instructions and Formats issued in this regard [Annexed herewith as Annexure R/1].

The Commission also directed the Chief Electoral Officer, Bihar *vide* Letter No. 464/BH-LA/ES-I/2020/173 dated 17.10.2020 to ensure compliance with the above noted directions of the Hon'ble Supreme Court in the General Elections to Bihar Legislative Assembly-2020 held between 28.10.2020 and 07.11.2020 [Annexed herewith as Annexure R/2]

In compliance of the directions given by the Hon'ble Supreme Court *vide* Judgement and Order dated 13.02.2020 and in pursuance to Commission's directions dated 17.10.2020, as per the report submitted by CEO Bihar [Annexed herewith as Annexure R/3] out of 10 recognized political parties which contested General Elections to the Bihar Legislative Assembly-2020, 08 political parties submitted information about criminal antecedents of the contesting candidates in Format C-8 to the Commission [Annexed herewith as Annexure R/4] and only 02 political parties namely Communist Party of India (Marxist) and Nationalist Congress Party that fielded 04 and 26 candidates respectively with criminal antecedents, did not furnish the requisite information in the prescribed format to the Commission.

It is pertinent to note that the Commission issued the Press Note announcing the schedule of the General Elections for Bihar Legislative Assembly on 25.09.2020. As per the said schedule, the last date for making nominations was as under:

S.No.	Phase	Last date for filing nominations
1.	Phase I	08.10.2020
2.	Phase II	16.10.2020
3.	Phase III	20.10.2020

The following eight political parties have submitted the requisite information in the prescribed format in phase wise manner as below:

S.No.	Name of Political Party	(For Phase 1) Submitted via Party's letter bearing date as below	(For Phase 2) Submitted via Party's letter bearing date as below	(For Phase 3) Submitted via Party's letter bearing date as below
1.	Bhartiya Janata Party (BJP)	23.10.2020	23.10.2020	29.10.2020
2.	Janata Dal (United) [JD(U)]	15.10.2020	21.10.2020	04.11.2020
3.	Rashtriya Lok Samata Party (RLSP)	30.10.2020	30.10.2020	30.10.2020
4.	Bahujan Samajwadi Party (BSP)	07.10.2020 09.10.2020 10.10.2020	15.10.2020 16.10.2020 17.10.2020 19.10.2020	20.10.2020 22.10.2020
5.	Indian National Congress (INC)	22.10.2020	22.10.2020	24.10.2020
6.	Lok Janshakti Party (LJP)	24.10.2020	24.10.2020	26.10.2020
7.	Communist Party of India (CPI)	15.10.2020	22.10.2020	15.10.2020
8.	Rashtriya Janata Dal (RJD)	20.10.2020	21.10.2020	21.10.2020

As per the Format C7 and C8 submitted by these 08 Political Parties, a total of 427 candidates with criminal antecedents participated in the General Elections for the Legislative Assembly of Bihar 2020 on the symbol of these political parties.

As per the Report received from CEO, Bihar, a total of 469 candidates with criminal antecedents participated in the General Elections for the Legislative Assembly of Bihar 2020 on the symbol of 10 recognised political parties, i.e. including Communist Party of India (Marxist) [04] and Nationalist Congress Party [26] which did not file the Format C-8 with the Election Commission of India

The details of the information submitted in format C-7 & C-8 by the political parties in respect of candidates having criminal antecedents who contested in General Election to Legislative Assembly of Bihar, 2020 is annexed herewith as Annexure R/5.”

4. Order dated 13.02.2020 in the case of ***Rambabu Singh Thakur v. Sunil Arora and Ors.*** (Contempt Petition (Civil) No. 2192 of 2018 in Writ Petition (Civil) No. 536 of 2011)¹ was passed alleging therein disregard of the directions issued by a Constitution Bench of this Court [hereinafter referred to as ‘Constitution Bench’] in ***Public Interest Foundation and others v. Union of India and another***².
5. The directions issued by the Constitution Bench in ***Public interest Foundation (supra)*** are thus:

“116. Keeping the aforesaid in view, we think it appropriate to issue the following directions which are in accord with the decisions of this Court:

¹ (2020) 3 SCC 733

² (2019) 3 SCC 224

116.1. Each contesting candidate shall fill up the form as provided by the Election Commission and the form must contain all the particulars as required therein.

116.2. It shall state, in bold letters, with regard to the criminal cases pending against the candidate.

116.3. If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.

116.4. The political party concerned shall be obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.

116.5. The candidate as well as the political party concerned shall issue a declaration in the widely circulated newspapers in the locality about the antecedents of the candidate and also give wide publicity in the electronic media. When we say wide publicity, we mean that the same shall be done at least thrice after filing of the nomination papers.”

6. The directions contained in our Order dated 13.02.2020 may first be set out:

“1. This contempt petition raises grave issues regarding the criminalisation of politics in India and brings to our attention a disregard of the directions of a Constitution Bench of this Court in *Public Interest Foundation and Ors. v. Union of India and Anr.* (2019) 3 SCC 224.

2. In this judgment, this Court was cognisant of the increasing criminalisation of politics in India and the lack of information about such criminalisation amongst the citizenry. In order to remedy this information gap, this Court issued the following directions:

“116. Keeping the aforesaid in view, we think it appropriate to issue the following directions which are in accord with the decisions of this Court:

116.1. Each contesting candidate shall fill up the form as provided by the Election Commission and the form must contain all the particulars as required therein.

116.2. It shall state, in bold letters, with regard to the criminal cases pending against the candidate.

116.3. If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.

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3. On a perusal of the documents placed on record and after submissions of counsel, it appears that over the last four general elections, there has been an alarming increase in the incidence of criminals in politics. In 2004, 24% of the Members of Parliament had criminal cases pending against them; in 2009, that went up to 30%; in 2014 to 34%; and in 2019 as many as 43% of MPs had criminal cases pending against them.

4. We have also noted that the political parties offer no explanation as to why candidates with pending criminal cases are selected as candidates in the first place. We therefore issue the following directions in exercise of our constitutional powers under Articles 129 and 142 of the Constitution of India:

1) It shall be mandatory for political parties [at the Central and State election level] to upload on their website detailed information regarding individuals with pending criminal cases (including the nature of the offences, and relevant particulars such as whether charges have been framed, the concerned Court, the case number etc.) who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates.

2) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere “winnability” at the polls.

3) This information shall also be published in:

(a) One local vernacular newspaper and one national newspaper;

(b) On the official social media platforms of the political party, including Facebook & Twitter.

4) These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.

5) The political party concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.

6) If a political party fails to submit such compliance report with the Election Commission, the Election Commission shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as being in contempt of this Court’s orders/directions.

5. With these directions, these Contempt Petitions are accordingly disposed of.”

7. It may be mentioned that pursuant to this Order, the ECI issued a letter dated 06.03.2020 addressed to all National and State level recognised political parties asking them to comply with the directions of the Supreme Court, and also issued a new Form C-7 in which the political parties have to publish the reason for selection of candidates with criminal antecedents in addition to all other relevant information. Also, in Form C-8, the political party was then to report compliance of this Court’s Order and the directions contained therein within 72 hours of selection of the

candidate. Importantly, it was made clear by the ECI that any non-compliance or failure to abide by the directions of this Court would be treated as a failure to follow directions as contemplated under Clause 16-A of the Election Symbols (Reservation and Allotment) Order, 1968 [hereinafter referred to as the “Symbols Order”].

8. A sequel to this letter was issued on 19.03.2020 by the ECI addressed to all Chief Electoral Officers urging that they in turn should urge political parties to file Form C-7 and C-8 promptly and that any non-compliance shall have to be reported by the last day of making nominations so that non-compliance by political parties could then be submitted by the ECI before this Court.
9. On 16.09.2020, the ECI issued another letter wherein timelines were also prescribed for publication of information regarding criminal antecedents during the period starting from the day following the last date for withdrawal of nomination and upto 48 hours before ending with the hour fixed for conclusion of poll. It prescribed three block periods within which such disclosures had to be made – (1) within the first four days of withdrawal; (2) within the 5th to 8th days; and (3) from the 9th day till the last day of the campaign or the second day prior to the date of the poll.
10. Armed with these instructions, the ECI, on 25.09.2020, announced the poll schedule for the Assembly Elections to be held in the State of Bihar.

Elections were to be held in three phases with results that were ultimately to be declared on 10.11.2020.

11. On 17.10.2020, the ECI sought details from the Chief Electoral Officer, Bihar regarding candidates contesting in Phase I of the said elections, who had criminal antecedents. The Association for Democratic Reforms issued a report dated 20.10.2020 on the Bihar Assembly Elections Phase I, wherein it found that 31% of the candidates have criminal antecedents, out of which 23% have serious criminal cases against them. Likewise, on 27.10.2020, another report was issued qua Phase II, wherein it was found that 34% of total candidates have criminal antecedents, 27% having serious criminal cases against them. Also, by a report dated 02.11.2020, for Phase III of the Bihar Assembly Elections, it was found that 31% of total candidates have criminal antecedents, 24% having serious criminal cases against them. It was also found that the percentage of candidates contesting having criminal antecedents to the total contesting candidates was 32% (Total Contestants 3733: Contestants with criminal cases 1201). Even more disturbing is the percentage of winning candidates having criminal antecedents jumping to 68% of the total number of candidates who won as MLAs – 163 out of 241. This was a 10% rise from the Assembly Elections of 2015 where the percentage of winning candidates having criminal antecedents to the total number of winning candidates stood at 58%. Equally disturbing is the fact that 51% of

winning candidates have serious criminal cases against them i.e. cases related to murder, kidnapping, attempt to murder, crime against women including rape, etc. It is in this backdrop that the present contempt petition has to be decided.

12. Section 8 of the Representation of People Act, 1951 [hereinafter referred to as the “Act of 1951”], states as follows:

“8. Disqualification on conviction for certain offences.-

(1) A person convicted of an offence punishable under-

(a) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offence of cruelty towards a woman by husband or relative of a husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860); or

(b) the Protection of Civil Rights Act, 1955 (22 of 1955) which provides for punishment for the preaching and practice of "untouchability", and for the enforcement of any disability arising therefrom; or

(c) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or

(d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place)

of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967);
or

(e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973);
or

(f) the Narcotic Drugs and Psychotropic Substances Act, 1985
(61 of 1985); or

(g) section 3 (offence of committing terrorist acts) or section 4
(offence of committing disruptive activities) of the Terrorist
and Disruptive Activities (Prevention) Act, 1987 (28 of 1987);
or

(h) section 7 (offence of contravention of the provisions of
sections 3 to 6) of the Religious Institutions (Prevention of
Misuse) Act, 1988 (41 of 1988); or

(i) section 125 (offence of promoting enmity between classes
in connection with the election) or section 135 (offence of
removal of ballot papers from polling stations) or section 135A
(offence of booth capturing) of clause (a) of sub-section (2) of
section 136 (offence of fraudulently defacing or fraudulently
destroying any nomination paper) of this Act; or

(j) section 6 (offence of conversion of a place of worship) of
the Places of Worship (Special Provisions) Act, 1991; or

(k) section 2 (offence of insulting the Indian National Flag or
the Constitution of India) or section 3 (offence of preventing
singing of National Anthem) of the Prevention of Insults to
National Honour Act, 1971 (69 of 1971), ; or

(l) the Commission of Sati (Prevention) Act, 1987 (3 of 1988);
or

(m) the Prevention of Corruption Act, 1988 (49 of 1988); or

(n) the Prevention of Terrorism Act, 2002 (15 of 2002)

shall be disqualified, where the convicted person is sentenced
to –

(i) only fine, for a period of six years from the date of such
conviction;

(ii) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

(2) A person convicted for the contravention of –

(a) any law providing for the prevention of hoarding or profiteering; or

(b) any law relating to the adulteration of food or drugs; or

(c) any provisions of the Dowry Prohibition Act, 1961 (28 of 1961);

(3) A person convicted of any offence and sentenced to imprisonment for not less than two years other than any offence referred to in sub-section (1) or sub-section (2) 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.

(4) Notwithstanding anything in sub-section (1), sub-section (2) or sub-section (3) a disqualification under either subsection shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

Explanation. —In this section, —

(a) "law providing for the prevention of hoarding or profiteering" means any law, or any order, rule or notification having the force of law, providing for—

(i) the regulation of production or manufacture of any essential commodity;

(ii) the control of price at which any essential commodity may be bought or sold;

(iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity;

- (iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale;
- (b) "drug" has the meaning assigned to it in the Drugs and Cosmetics Act, 1940 (23 of 1940);
- (c) "essential commodity" has the meaning assigned to it in the Essential Commodity Act, 1955 (10 of 1955);
- (d) "food" has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954)."

A reading of Section 8 would show that, apart from certain grievous offences and convictions thereunder, it is only upon conviction of a minimum period of two years for other offences that a candidate gets disqualified from standing for election. This Court has time and again referred to the long periods in which persons are undertrials, and the unsatisfactory result of undertrials taking advantage of the law and standing for election after election simply because their cases have not been decided in a timely manner. Given the fact that false cases can be filed, the Law Commission of India recommended that if charges are framed for offences in which punishment is for a period of two years or more, a law should be made amending Section 8 so that this can be incorporated therein, thereby reducing at one fell stroke the huge criminalisation that is found in politics in this country. Apart from this, this Court has held that the least that can be done, given the present state of the law, is that at least information as to acquittals, discharge or conviction in relation to criminal offences in the past be set out by way of affidavit so that a voter has the right to know full

particulars of the candidate for whom he is going to vote, including whether the candidate has committed criminal offences in the past. To this effect, this Court in ***Union of India v. Association for Democratic Reforms and Another***³, directed as follows:

“22. For health of democracy and fair election, whether the disclosure of assets by a candidate, his/her qualification and particulars regarding involvement in criminal cases are necessary for informing voters, maybe illiterate, so that they can decide intelligently, whom to vote for. In our opinion, the decision of even an illiterate voter, if properly educated and informed about the contesting candidate, would be based on his own relevant criteria of selecting a candidate. In democracy, periodical elections are conducted for having efficient governance for the country and for the benefit of citizens — voters. In a democratic form of government, voters are of utmost importance. They have right to elect or re-elect on the basis of the antecedents and past performance of the candidate. The voter has the choice of deciding whether holding of educational qualification or holding of property is relevant for electing or re-electing a person to be his representative. Voter has to decide whether he should cast vote in favour of a candidate who is involved in a criminal case. For maintaining purity of elections and a healthy democracy, voters are required to be educated and well informed about the contesting candidates. Such information would include assets held by the candidate, his qualification including educational qualification and antecedents of his life including whether he was involved in a criminal case and if the case is decided — its result, if pending — whether charge is framed or cognizance is taken by the court. There is no necessity of suppressing the relevant facts from the voters.

xxx xxx xxx

46. To sum up the legal and constitutional position which emerges from the aforesaid discussion, it can be stated that:

1. The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth

³ (2002) 5 SCC 294

conduct of elections and the word “elections” is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.

xxx xxx xxx

4. To maintain the purity of elections and in particular to bring transparency in the process of election, the Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.

5. The right to get information in democracy is recognised all throughout and it is a natural right flowing from the concept of democracy. At this stage, we would refer to Article 19(1) and (2) of the International Covenant on Civil and Political Rights, which is as under:

“(1) Everyone shall have the right to hold opinions without interference.

(2) Everyone shall have the right to freedom of expression; *this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*”

xxx xxx xxx

7. Under our Constitution, Article 19(1)(a) provides for freedom of speech and expression. Voter's speech or expression in case of election would include casting of votes, that is to say, **voter speaks out or expresses by casting vote**. For this purpose, information about the candidate to be selected is a must. Voter's (little man — citizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. **The little man may think over before making his choice of electing law-breakers as law-makers.**

48. The Election Commission is directed to call for information on affidavit by issuing necessary order in exercise of its power under Article 324 of the Constitution of India from each candidate seeking election to Parliament or a State Legislature as a necessary part of his nomination paper, furnishing therein, information on the following aspects in relation to his/her candidature:

(1) Whether the candidate is convicted/acquitted/discharged of any criminal offence in the past — if any, whether he is punished with imprisonment or fine.

(2) Prior to six months of filing of nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charge is framed or cognizance is taken by the court of law. If so, the details thereof.

(3) The assets (immovable, movable, bank balance, etc.) of a candidate and of his/her spouse and that of dependants.

(4) Liabilities, if any, particularly whether there are any overdues of any public financial institution or government dues.

(5) The educational qualifications of the candidate.”

13. As an aftermath of this judgement, Sections 33-A and 33-B were

introduced into the Act of 1951. These sections provided:

“33-A. Right to information.—(1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (1) of Section 33, also furnish the information as to whether—

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of Section 8 and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the Returning Officer the nomination paper under sub-section (1) of Section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form verifying the information specified in sub-section (1).

(3) The Returning Officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.

33-B. Candidate to furnish information only under the Act and the rules.—Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.”

14. A challenge to these Sections was made, and Section 33-B struck down by a Three-Judge Bench in *People's Union for Civil Liberties (PUCL) v. Union of India and Another*⁴. Shah, J. concluded:

“78. What emerges from the above discussion can be summarised thus:

(A) The legislature can remove the basis of a decision rendered by a competent court thereby rendering that decision ineffective but the legislature has no power to ask the instrumentalities of the State to disobey or disregard the decisions given by the court. A declaration that an order made by a court of law is void is normally a part of the judicial function. The legislature cannot declare that decision rendered by the Court is not binding or is of no effect.

⁴ (2003) 4 SCC 399

It is true that the legislature is entitled to change the law with retrospective effect which forms the basis of a judicial decision. This exercise of power is subject to constitutional provision, therefore, it cannot enact a law which is violative of fundamental right.

(B) Section 33-B which provides that notwithstanding anything contained in the judgment of any court or directions issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information in respect of his election which is not required to be disclosed or furnished under the Act or the rules made thereunder, is on the face of it beyond the legislative competence, as this Court has held that the voter has a fundamental right under Article 19(1)(a) to know the antecedents of a candidate for various reasons recorded in the earlier judgment as well as in this judgment.

The Amended Act does not wholly cover the directions issued by this Court. On the contrary, it provides that a candidate would not be bound to furnish certain information as directed by this Court.

(C) The judgment rendered by this Court in *Assn. for Democratic Reforms* has attained finality, therefore, there is no question of interpreting constitutional provision which calls for reference under Article 145(3).

(D) The contention that as there is no specific fundamental right conferred on a voter by any statutory provision to know the antecedents of a candidate, the directions given by this Court are against the statutory provisions is, on the face of it, without any substance. In an election petition challenging the validity of an election of a particular candidate, the statutory provisions would govern respective rights of the parties. However, voters' fundamental right to know the antecedents of a candidate is independent of statutory rights under the election law. A voter is first citizen of this country and apart from statutory rights, he is having fundamental rights conferred by the Constitution. Members of a democratic society should be sufficiently informed so that they may cast their votes intelligently in favour of persons who are to govern them. Right to vote would be meaningless unless the citizens are well informed about the antecedents of a candidate. There can be little doubt that exposure to public gaze and scrutiny is

one of the surest means to cleanse our democratic governing system and to have competent legislatures.

(E) It is established that fundamental rights themselves have no fixed content, most of them are empty vessels into which each generation must pour its content in the light of its experience. The attempt of the Court should be to expand the reach and ambit of the fundamental rights by process of judicial interpretation. During the last more than half a decade, it has been so done by this Court consistently. There cannot be any distinction between the fundamental rights mentioned in Chapter III of the Constitution and the declaration of such rights on the basis of the judgments rendered by this Court.”

Reddi, J. in a separate judgment concluded:

“**123.** Finally, the summary of my conclusions:

(1) Securing information on the basic details concerning the candidates contesting for elections to Parliament or the State Legislature promotes freedom of expression and therefore the right to information forms an integral part of Article 19(1)(a). This right to information is, however, qualitatively different from the right to get information about public affairs or the right to receive information through the press and electronic media, though, to a certain extent, there may be overlapping.

(2) The right to vote at the elections to the House of the People or Legislative Assembly is a constitutional right but not merely a statutory right; freedom of voting as distinct from right to vote is a facet of the fundamental right enshrined in Article 19(1)(a). The casting of vote in favour of one or the other candidate marks the accomplishment of freedom of expression of the voter.

(3) The directives given by this Court in *Union of India v. Assn. for Democratic Reforms* were intended to operate only till the law was made by the legislature and in that sense “pro tempore” in nature. Once legislation is made, the Court has to make an independent assessment in order to evaluate whether the items of information statutorily ordained are reasonably adequate to secure the right of information available to the voter/citizen. In embarking on this exercise, the points of disclosure indicated by this Court, even if they be tentative or ad hoc in nature, should be given due

weight and substantial departure therefrom cannot be countenanced.

(4) The Court has to take a holistic view and adopt a balanced approach in examining the legislation providing for right to information and laying down the parameters of that right.

(5) Section 33-B inserted by the Representation of the People (Third Amendment) Act, 2002 does not pass the test of constitutionality, firstly, for the reason that it imposes a blanket ban on dissemination of information other than that spelt out in the enactment irrespective of the need of the hour and the future exigencies and expedients and secondly, for the reason that the ban operates despite the fact that the disclosure of information now provided for is deficient and inadequate.

(6) The right to information provided for by Parliament under Section 33-A in regard to the pending criminal cases and past involvement in such cases is reasonably adequate to safeguard the right to information vested in the voter/citizen. However, there is no good reason for excluding the pending cases in which cognizance has been taken by the Court from the ambit of disclosure.

(7) The provision made in Section 75-A regarding declaration of assets and liabilities of the elected candidates to the Speaker or the Chairman of the House has failed to effectuate the right to information and the freedom of expression of the voters/citizens. Having accepted the need to insist on disclosure of assets and liabilities of the elected candidate together with those of the spouse or dependent children, Parliament ought to have made a provision for furnishing this information at the time of filing the nomination. Failure to do so has resulted in the violation of guarantee under Article 19(1)(a).

(8) The failure to provide for disclosure of educational qualification does not, in practical terms, infringe the freedom of expression.

(9) The Election Commission has to issue revised instructions to ensure implementation of Section 33-A subject to what is laid down in this judgment regarding the cases in which cognizance has been taken. The Election Commission's orders related to disclosure of assets and liabilities will still

hold good and continue to be operative. However, Direction 4 of para 14 insofar as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information should not be enforced.”

Dharmadhikari, J. in a separate judgment agreed with Reddi, J., and Shah J. on the invalidity of Section 33-B of the Representation of People Act, 1951, while choosing to disagree with propositions 3 and 8 in the opinion of Reddi, J. Section 33-B, therefore, stood struck down.

15. In 2012, an important amendment was made to the Conduct of Election Rules, 1961, and Form 26 was also amended. This Court in **Satish Ukey v. Devendra Gangadharrao Fadnavis and Another**⁵, referred to the aforesaid amendment as follows:

“24. A cumulative reading of Section 33-A of the 1951 Act and Rule 4-A of the 1961 Rules and Form 26 along with the letters dated 24-8-2012, 26-9-2012 and 26-4-2014, in our considered view, make it amply clear that the information to be furnished under Section 33-A of the 1951 Act includes not only information mentioned in clauses (i) and (ii) of Section 33-A(1), but also information, that the candidate is required to furnish, under the Act or the Rules made thereunder and such information should be furnished in Form 26, which includes information concerning cases in which a competent court has taken cognizance [Entry 5(ii) of Form 26]. This is apart from and in addition to cases in which charges have been framed for an offence punishable with imprisonment for two years or more or cases in which conviction has been recorded and sentence of imprisonment for a period of one year or more has been imposed [Entries 5(i) and 6 of Form 26 respectively].”

⁵ (2019) 9 SCC 1

16. In ***Public Interest Foundation (supra)***, a Five-Judge Bench of this Court, after setting out Section 8 of the Representation of People Act, 1951 and copiously referring to the 244th Law Commission Report titled “Electoral Disqualifications” of February 2014, issued directions contained in paragraph 116, as referred to in our Order dated 13.02.2020.

The Court ended with a sense of anguish followed by hope as follows:

“117. These directions ought to be implemented in true spirit and right earnestness in a bid to strengthen the democratic set-up. There may be certain gaps or lacunae in a law or legislative enactment which can definitely be addressed by the legislature if it is backed by the proper intent, strong resolve and determined will of right-thinking minds to ameliorate the situation. It must also be borne in mind that the law cannot always be found fault with for the lack of its stringent implementation by the authorities concerned. Therefore, it is the solemn responsibility of all concerned to enforce the law as well as the directions laid down by this Court from time to time in order to infuse the culture of purity in politics and in democracy and foster and nurture an informed citizenry, for ultimately it is the citizenry which decides the fate and course of politics in a nation and thereby ensures that “we shall be governed no better than we deserve”, and thus, complete information about the criminal antecedents of the candidates forms the bedrock of wise decision-making and informed choice by the citizenry. Be it clearly stated that informed choice is the cornerstone to have a pure and strong democracy.

118. We have issued the aforesaid directions with immense anguish, for the Election Commission cannot deny a candidate to contest on the symbol of a party. A time has come that Parliament must make law to ensure that persons facing serious criminal cases do not enter into the political stream. It is one thing to take cover under the presumption of innocence of the accused but it is equally imperative that persons who enter public life and participate in law making should be above any kind of serious criminal allegation. It is

true that false cases are foisted on prospective candidates, but the same can be addressed by Parliament through appropriate legislation. The nation eagerly waits for such legislation, for the society has a legitimate expectation to be governed by proper constitutional governance. The voters cry for systematic sustenance of constitutionalism. The country feels agonised when money and muscle power become the supreme power. Substantial efforts have to be undertaken to cleanse the polluted stream of politics by prohibiting people with criminal antecedents so that they do not even conceive of the idea of entering into politics. They should be kept at bay.

119. We are sure, the law-making wing of the democracy of this country will take it upon itself to cure the malignancy. We say so as such a malignancy is not incurable. It only depends upon the time and stage when one starts treating it; the sooner the better, before it becomes fatal to democracy. Thus, we part.”

17. The nation continues to wait, and is losing patience. Cleansing the polluted stream of politics is obviously not one of the immediate pressing concerns of the legislative branch of government. As a sequel to this judgment the directions contained in the order dated 13.02.2020 were then made.

18. Shri K.V. Viswanathan, learned amicus curiae placed before us some of the facts stated hereinabove. In addition, he also referred to revised guidelines issued by the ECI on 26.02.2021 in which the criteria for publishing in a newspaper was specified. He then analysed the report of the ECI and submitted that given our contempt jurisdiction under Article 129 read with Article 142 of the Constitution of India we are not bound by the provisions of the Contempt of Courts Act, 1971 and can not only impose sentences, fines, but can also reprimand authorities and persons

for acting contrary to our directions. He picked up, at random, some examples which showed how all the political parties have been flouting our directions in letter and spirit, fielding persons whose criminal antecedents show that they have been charge-sheeted or charged with serious offences, with no real reason as to why such person has been preferred over other more deserving candidates. This chart is appended to our judgment as Annexure-I hereto. In addition, he argued that Forms C-1, C-2, C-7 and C-8 were either not filled (2 out of 10 parties admittedly have not filled up Forms C-7 and C-8) or have been filled without disclosing particulars. He then copiously referred to the Symbols Order and argued that if we were to give teeth to our Order dated 13.02.2020, the ECI ought to issue directions under clause 16-A of the Symbols Order by giving a post-decisional hearing (after the ECI amends clause 16-A to provide as such), and then suspending or withdrawing recognition to National and/or State political parties who flout the directions contained in our Order dated 13.02.2020. He has also made certain valuable suggestions which shall be reflected in the directions issued by this judgment.

19. Shri Vikas Singh, learned senior advocate appearing on behalf of the ECI, referred to our Order dated 11.02.2021 in which this Court had issued notice in the present contempt petition and argued that the ECI had filed its report in compliance of the Order dated 13.02.2020. To therefore

argue, as has been argued by the learned petitioner and as suggested by Shri Viswanathan that the ECI is itself in contempt in not having promptly notified this Court of the non-following of its directions in the Order dated 13.02.2020 is absolutely baseless. As a matter of fact, he argued that the contempt petition itself was filed 4 days before the result was declared, and it is therefore misleading to say that it was only after the contempt petition was filed that the ECI gave its report to the Court. As can be seen, this report is dated 01.02.2020 and has been filed at the earliest possible time given the fact that the ECI had to compile a great deal of data and then present it to this Court.

20. He then urged that apart from directions that could be issued under clause 16-A of the Symbols Order, electors, that is, those who are entitled to vote at an election are also given the right to approach the Court in an election petition under Section 81 read with Section 100 of the Representation of the People Act, 1951 on the ground that the election of the returned candidate is materially affected by rejection of an application filed by such elector for being nominated by such political party as he was better suited to represent the particular political party in view of our Order dated 13.02.2020. He then urged that such election petition so filed could be considered on merits, as a violation of our Order would amount to undue influence which is a “corrupt practice” under Section 123(2) read with Section 100(1)(b) of the Representation of the People Act, 1951. He

also urged that the Model Code of Conduct requires that the ECI shall ordinarily announce the date of an election not more than three weeks prior to the date on which notification is likely to be issued. In the case of the Bihar Assembly Elections 2020, the poll schedule was announced only 5 days prior to the notification for the first phase of election. He therefore exhorted this Court to direct the ECI to follow the Model Code of Conduct in this behalf so that a political party can announce its candidates two weeks prior to the notification, which is the first date of filing of nomination. Simultaneously, details of candidates in terms of paragraph 4.3 of our Order dated 13.2.2020 can then be published well in advance. He also pointed out a judgment of this Court in ***Pravasi Bhalai Sangathan v. Union of India and Others***⁶ and paragraph 29 thereof, where a direction has been made that a reference be made to the Law Commission to study as to whether the ECI should be conferred the power to de-recognize a political party in cases in which hate speech is involved.

21. Shri Harish Salve, learned senior advocate also appeared for the ECI and submitted that there are no instructions on behalf of the ECI on directing the ECI to follow the Model Code of Conduct so that a political party can announce its candidates two weeks prior to the notification, which is the

⁶ (2014) 11 SCC 477

first date of filing of nomination, as has been submitted by Shri Vikas Singh. He also added that any such direction may be contrary to Section 30 of the Representation of People Act, 1951. Given the fact that two learned senior advocates are arguing for the same party at cross purposes and given the fact that Shri Vikas Singh later argued that his submission was as an Officer of the Court and not on instructions, we are of the view that it is hazardous to follow the course of action advocated by Shri Vikas Singh.

22. Shri Shrish Kumar Mishra, learned counsel appearing on behalf of Respondent No. 5 referred to the written submissions dated 22.07.2021 and submitted that while clause 16-A of the Symbols Order may be put to use for refusing to follow lawful directions issued by the ECI, this Court must not, in a bid to control criminalisation in politics, venture any further and hold that a candidate is to be debarred from contesting if there are charges framed against him/her in a pending criminal case. He further submitted that in order to ensure expeditious disposal of criminal trials, it would be imperative to increase the number of judges through an All Indian Judicial Services which is in line with the existing All India Civil Services.

23. Shri P.V. Surendranath, learned senior advocate appearing on behalf of Respondent No. 8, referred to written submissions dated 22.07.2021 and submitted that direction 4.4 contained in our Order dated 13.02.2020 will

have to be modified in order to accommodate the date of withdrawal of nomination by a candidate within the timeline prescribed for publication of Form C-7 and C-8. He further submitted that the invocation of clause 16-A of the Symbols Order must be limited to extreme situations of consistent and persistent failure, refusal or defiance to follow the lawful directions and instructions of the ECI and consequently must not be invoked for a single or isolated non-compliance of a direction without intention to refuse to comply with the direction. He also submitted that even in an extreme case of non-compliance, the approach of the ECI must be proportionate to the extent of such non-compliance. He further submitted that the measures as suggested by the learned Amicus Curiae regarding a situation where only one candidate has applied for a particular seat may not be acceded to as the nomination of a candidate is the prerogative of the party and is based on various factors which are considered by the party before selection of the candidate. This apart, he submitted that the measure suggested by the learned Amicus Curiae on directions to be given to the General Secretary of each party to submit a separate affidavit detailing compliance of the directions issued by the ECI may not be acceded to as this is in the domain of the legislature and that it will lead to a situation where the General Secretary of the party having submitted such an affidavit based on information given to them by the candidates may now be vulnerable to prosecution under Section 125-A

of the Representation of People Act, 1951 for no fault of their own. He further argued that this Court must not read clause 16-A of the Symbols Order to include a post-decisional hearing as it would prejudicially affect democracy based on a multi-party system.

24. Shri Kapil Sibal, learned senior advocate appearing on behalf of Respondent No. 9 referred to written submissions dated 22.07.2021 and submitted that the withdrawal or suspension of recognition through clause 16-A of the Symbols Order is akin to de-registration of a political party as it denies the party the right to exclusive use the election symbol assigned to it. He further submitted that clause 16-A being an unfettered power vested with the ECI and such power having not been expressly conferred on the ECI by either the Constitution of India or the legislature, the clause needs to be held to be *ultra vires* and therefore is liable to be struck down. Without prejudice to the argument on the *vires* of clause 16-A, he submitted that given the ramifications of the withdrawal or suspension of recognition, the power must be exercised by the ECI proportionate to the extent of breach of its directions and must not be used in respect of every breach of a direction passed by it. He also submitted that this Court must not accede to the suggestion of the learned Amicus Curiae that the benefit of clause 10-A of the Symbols Order must not be available to a party when the loss of recognition is pursuant to an action taken by the

ECI under clause 16-A of the Symbols Order, as such an interpretation is not contemplated in the language of either clause 10-A or clause 16-A.

25. We will first consider the directions in our Order dated 13.02.2020. Vide directions contained in paragraph 4.1, we had directed the political parties to upload on their websites detailed information regarding individuals with pending criminal cases who have been selected as candidates, along with the reasons for such selection, and also as to why other individuals without criminal antecedents could not be selected as candidates. Further, through paragraph 4.2 of the said Order, we had directed that the reasons as to the selection shall be with reference to qualifications, achievements and merits of the candidate concerned and not mere “winnability” at the polls.

26. The aforesaid directions have been given in furtherance of the directions already given by the Constitution Bench in ***Public Interest Foundation (supra)***, so as to enable the voter to have an informed choice while exercising his right to vote. By the said direction, what has been directed by us, is only to provide information to the voter so that his right to have information as to why a particular political party has chosen a candidate having criminal antecedents and as to why a political party has not chosen a candidate without criminal antecedents, is effectively guaranteed. We are of the view that such a requirement would only

enable the voter to have complete information and exercise his right to vote effectively.

27. There are various factors which a political party takes into consideration while selecting a candidate. As a citizen who possesses requisite qualifications and is not disqualified under any of the provisions of the Constitution or the Act of 1951, has a right to contest an election and a voter has a right to vote a candidate of his choice, a political party would also have the discretion to choose a candidate of its choice.

28. As has already been considered in various judgments, a possibility of a rival implicating someone falsely, as a political vendetta, is not unknown in the country. Take a situation wherein otherwise a highly meritorious candidate has been falsely implicated in some criminal matters by his rivals. As against this, a person who has a clean record, but totally unknown to the electorate in that area, applies for a ticket of a political party. In such a situation, a political party can always give a reason that a candidate with criminal antecedents is found to be more suitable than a person who does not have criminal antecedents. The reasons could be many. If the political party is of the prima facie opinion that such a candidate has been falsely implicated, it can say so. What has been provided by us in paragraph 4.2 of the Order dated 13.02.2020 is that the reasons should not be with regard to “mere winnability at the polls”. As such, though a political party would have the freedom of selecting

candidates of its choice, though having criminal antecedents, what would be required is to give reasons in support of such selection, and the reasons could be dependent on various factors including qualifications, achievements and other merits. At the cost of repetition, such a direction is only to enable a voter to have all the necessary information, so that he can exercise his right to franchise in an effective manner. The directions in no way impinge upon the right of a political party to choose a candidate of its own choice.

29. The direction contained in paragraph 4.4 of the Order dated 13.02.2020 requires that the details as to information regarding candidates are required to be published within 48 hours of selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.

30. Arguments have been advanced before us with regard to the practicability of implementation of the direction contained in paragraph 4.4. To consider the said submissions, it will be relevant to refer to Section 30 of the said Act of 1951:

“30. Appointment of dates for nominations, etc.—As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint —

(a) the last date for making nominations, which shall be the seventh day after the date of publication of the first-mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations, which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday ;

(c) the last date for the withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the fourteenth day after the last date for the withdrawal of candidatures; and

(e) the date before which the election shall be completed.”

31. Perusal of Section 30 of the said Act of 1951 would require that the ECI shall, by notification in the Official Gazette, appoint the last date for making nominations, which shall be the seventh date after the date of publication of the first mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday. Clause (b) of Section 30 of the said Act of 1951 would require that the date for the scrutiny of nominations shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday. Clause (c) of Section 39 of the said Act of 1951 would require that the last date for the withdrawal of candidature shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day, which is not a public holiday.

32. A combined reading of clauses (a) to (c) of Section 30 of the said Act of 1951 would reveal that the last date for withdrawal of candidature would be around 10 days from the date of notification published by the ECI in the Official Gazette.
33. It is a ground reality that in most of the cases the candidates are finalised by the political parties between the period commencing from the date of notification till the last date of withdrawal. Direction No. 4.4 requires the details to be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier. There should be no difficulty insofar as requirement to publish the details within 48 hours from the selection of candidate is concerned.
34. It could thus be seen that in the light of the statutory provision as it exists, it would not be possible to follow the direction to publish the details prior to two weeks before the first date of filing of nomination.
35. No doubt Shri Vikas Singh, learned Senior Counsel, who first addressed this Court as a counsel for the ECI and later on as an Officer of the Court, made a suggestion that the political parties could be directed to finalise their candidates before a substantial period and as such, such a direction could be complied with. In our view, unless the competent legislature takes a call on the issue and makes suitable statutory provisions, it will not be permissible for this Court to lay down such a guideline.

36. It has been strenuously submitted by Shri Viswanathan, the learned Amicus Curiae who has been supported by Shri Vikas Singh, that, this Court should issue a direction to the ECI to invoke powers under Clause 16-A of the Symbols Order and take requisite action under the said clause to suspend, subject to terms and conditions, or withdraw recognition of such political party. Such a request has been vehemently opposed by all the counsel appearing on behalf of the political parties. It has been submitted that the direction would empower the ECI to suspend or withdraw recognition of political party even for a small lapse on the part of a candidate or an office bearer of a political party in a District or a State.
37. For appreciating the submissions made by the learned Amicus Curiae, it will be apposite to refer to some of the observations made by the Constitution Bench in ***Public Interest Foundation (supra)***:

“8. In *Lily Thomas v. Union of India* [*Lily Thomas v. Union of India*, (2013) 7 SCC 653 : (2013) 3 SCC (Civ) 678 : (2013) 3 SCC (Cri) 641 : (2013) 2 SCC (L&S) 811], it has been held : (SCC p. 669, para 26)

“26. Articles 102(1)(e) and 191(1)(e) of the Constitution, on the other hand, have conferred specific powers on Parliament to make law providing disqualifications for membership of either House of Parliament or Legislative Assembly or Legislative Council of the State other than those specified in sub-clauses (a), (b), (c) and (d) of clause (1) of Articles 102 and 191 of the Constitution. We may note that no power is vested in the State Legislature to make law laying down disqualifications of membership of the Legislative Assembly or Legislative Council of the State and power is vested in Parliament to make law laying down disqualifications also in respect of Members of the

Legislative Assembly or Legislative Council of the State. For these reasons, we are of the considered opinion that the legislative power of Parliament to enact any law relating to disqualification for membership of either House of Parliament or Legislative Assembly or Legislative Council of the State can be located only in Articles 102(1)(e) and 191(1)(e) of the Constitution and not in Article 246(1) read with Schedule VII List I Entry 97 and Article 248 of the Constitution. We do not, therefore, accept the contention of Mr Luthra that the power to enact sub-section (4) of Section 8 of the Act is vested in Parliament under Article 246(1) read with Schedule VII List I Entry 97 and Article 248 of the Constitution, if not in Articles 102(1)(e) and 191(1)(e) of the Constitution.”

We have no hesitation in saying that the view expressed above in *Lily Thomas* [*Lily Thomas v. Union of India*, (2013) 7 SCC 653 : (2013) 3 SCC (Civ) 678 : (2013) 3 SCC (Cri) 641 : (2013) 2 SCC (L&S) 811] is correct, for Parliament has the exclusive legislative power to lay down disqualification for membership.”

38. It would thus be clear that the Constitution Bench has approved the view expressed by this Court in the case of ***Lily Thomas v. Union of India and Others***⁷, that the legislative power of parliament to enact any law relating to disqualification for membership of either House of Parliament or Legislative Assembly or Legislative Council of the State can be located only in Articles 102(1)(e) and 191(1)(e) of the Constitution and not in Article 246(1) read with Schedule VII List I Entry 97 and Article 248 of the Constitution.

⁷ (2013) 7 SCC 653

39. It will be relevant to further refer to paragraphs 24 and 25 of the judgment of the Constitution Bench in ***Public Interest Foundation (supra)***, which read thus:

“24. It is well settled in law that the court cannot legislate. Emphasis is laid on the issuance of guidelines and directions for rigorous implementation. With immense anxiety, it is canvassed that when a perilous condition emerges, the treatment has to be aggressive. The petitioners have suggested another path. But, as far as adding a disqualification is concerned, the constitutional provision states the disqualification, confers the power on the legislature, which has, in turn, legislated in the imperative.

25. Thus, the prescription as regards disqualification is complete is in view of the language employed in Section 7(b) read with Sections 8 to 10-A of the Act. It is clear as noon day and there is no ambiguity. The legislature has very clearly enumerated the grounds for disqualification and the language of the said provision leaves no room for any new ground to be added or introduced.”

[emphasis supplied]

40. It could thus be clearly seen that the Constitution Bench has, in unequivocal terms, held that the Court cannot legislate. It is further held that the prescription as regards disqualification is complete in view of the language employed in Section 7(b) read with Sections 8 to 10-A of the Act of 1951. The Constitution Bench goes on to say that it is clear as noon day and that there is no ambiguity. It has further held that the legislature has very clearly enumerated the grounds for disqualification and the language of the said provision leaves no room for any new ground to be added or introduced.

41. After considering the 18th report presented to the Rajya Sabha on 15th March, 2007 by the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice on Electoral Reforms (Disqualification of Persons from contesting Election on Framing of Charges against them for Certain Offences), the 244th Law Commission Report titled “Electoral Disqualifications” as well as various judgments of this Court, the Constitution Bench has reproduced the recommendations of the Law Commission in paragraph 59, which reads thus:

“59. The eventual recommendations and proposed sections by the Law Commission read as follows:

“1. ***

2. The filing of the police report under Section 173 CrPC is not an appropriate stage to introduce electoral disqualifications owing to the lack of sufficient application of judicial mind at this stage.

3. The stage of framing of charges is based on adequate levels of judicial scrutiny, and disqualification at the stage of charging, if accompanied by substantial attendant legal safeguards to prevent misuse, has significant potential in curbing the spread of criminalisation of politics.

4. The following safeguards must be incorporated into the disqualification for framing of charges owing to potential for misuse, concern of lack of remedy for the accused and the sanctity of criminal jurisprudence:

(i) Only offences which have a maximum punishment of five years or above ought to be included within the remit of this provision.

(ii) Charges filed up to one year before the date of scrutiny of nominations for an election will not lead to disqualification.

(iii) The disqualification will operate till an acquittal by the trial court, or for a period of six years, whichever is earlier.

(iv) For charges framed against sitting MPs/MLAs, the trials must be expedited so that they are conducted on a day-to-day basis and concluded within a one-year period. If trial not concluded within a one-year period then one of the following consequences ought to ensue:

- The MP/MLA may be disqualified at the expiry of the one-year period; or

- The MP/MLA's right to vote in the House as a Member, remuneration and other perquisites attaching to their office shall be suspended at the expiry of the one-year period.

5. Disqualification in the above manner must apply retroactively as well. Persons with charges pending (punishable by five years or more) on the date of the law coming into effect must be disqualified from contesting future elections, unless such charges are framed less than one year before the date of scrutiny of nomination papers for elections or the person is a sitting MP/MLA at the time of enactment of the Act. Such disqualification must take place irrespective of when the charge was framed.

1. There is large-scale violation of the laws on candidate affidavits owing to lack of sufficient legal consequences. As a result, the following changes should be made to the RPA:

- (i) Introduce enhanced sentence of a minimum of two years under Section 125-A of the RPA Act on offence of filing false affidavits.

- (ii) Include conviction under Section 125-A as a ground of disqualification under Section 8(1) of the RPA.

- (iii) Include the offence of filing false affidavit as a corrupt practice under Section 123 of the RPA.

2. Since conviction under Section 125-A is necessary for disqualification under Section 8 to be triggered, the Supreme Court may be pleased to order that in all trials under Section 125-A, the relevant court conducts the trial on a day-to-day basis.

3. A gap of one week should be introduced between the last date for filing nomination papers and the date of scrutiny, to give adequate time for the filing of objections to nomination papers.”

42. After reproducing the aforesaid recommendations, the Constitution Bench has expressed its anguish as under:

“60. The aforesaid recommendations for proposed amendment never saw the light of the day in the form of a law enacted by a competent legislature but it vividly exhibits the concern of the society about the progressing trend of criminalisation in politics that has the proclivity and the propensity to send shivers down the spine of a constitutional democracy.”

[emphasis supplied]

43. The Constitution Bench further observed thus:

“61. Having stated about the relevant aspects of the Law Commission Report and the indifference shown to it, the learned counsel for the petitioners and intervenors have submitted that certain directions can be issued to the Election Commission so that the purity of democracy is strengthened. It is urged by them that when the Election Commission has been conferred the power to supervise elections, it can control party discipline of a political party by not encouraging candidates with criminal antecedents.”

[emphasis supplied]

44. After considering various judgments of this Court on the scope of power of the ECI under Article 324 of the Constitution, the Constitution Bench observed thus:

“71. The aforesaid decisions are to be appositely appreciated. There is no denial of the fact that the Election Commission has the plenary power and its view has to be given weightage. That apart, it has power to supervise the conduct of free and fair election. However, the said power has its limitations. The Election Commission has to act in conformity with the law made by Parliament and it cannot transgress the same.”

[emphasis supplied]

45. The Constitution Bench thereafter in paragraphs 72 and 73 recorded the suggestions given by the learned Senior Counsel appearing for the petitioner in Writ Petition (Civil) No. 800 of 2015 for giving directions to the ECI to deal with systemic growth of the problem of criminalisation of politics and the political system and recorded thus:

“74. Mr Venugopal's submission has been supported by Mr Dinesh Dwivedi, learned Senior Counsel appearing for the petitioners in Writ Petition (Civil) No. 536 of 2011 and Mr Sidharth Luthra, learned Amicus Curiae, *to the effect that if the Court does not intend to incorporate a prior stage in criminal trial, it can definitely direct the Election Commission to save democracy by including some conditions in the Election Symbols (Reservation and Allotment) Order, 1968 (hereinafter referred to as “the Symbols Order”). The submission is that a candidate against whom criminal charges have been framed in respect of heinous and grievous offences should not be allowed to contest with the symbol of the party. It is urged that the direction would not amount to adding a disqualification beyond what has been provided by the legislature but would only deprive a candidate from contesting with the symbol of the political party.*”

[emphasis supplied]

46. Thereafter, the Constitution Bench records the objection of the learned Attorney General of India to the aforesaid suggestion, which reads thus:

“75. The aforesaid submission is seriously opposed by the learned Attorney General. It is the case of the first respondent that Section 29-A of the Act does not permit the Election Commission of India to deregister a political party. To advance this view, the Union of India has relied upon the decision of this Court in *Indian National Congress (I) v. Institute of Social Welfare* [*Indian National Congress (I) v. Institute of Social Welfare*, (2002) 5 SCC 685] .

76. It is also the asseveration of the first respondent that the power of this Court to issue directions to the Election Commission of India have been elaborately dealt with in *Assn. for Democratic Reforms [Union of India v. Assn. for Democratic Reforms]*, (2002) 5 SCC 294] wherein this Court held that Article 32 of the Constitution of India only operates in areas left unoccupied by legislation and in the case at hand, the Constitution of India and the Representation of the People Act, 1951 already contain provisions for disqualification of Members of Parliament. ***Therefore, directing the Election Commission to (a) deregister a political party, (b) refuse renewal of a political party or (c) to not register a political party if they associate themselves with persons who are merely charged with offences would amount to adopting a colourable route, that is, doing indirectly what is clearly prohibited under the Constitution of India and the Representation of the People Act.***

77. It is also contended on behalf of the Union of India that ***adding a condition to the recognition of a political party under the Symbols Order would also result in doing indirectly what is clearly prohibited.*** To buttress this stand, the Union of India has cited the decisions in *Jagir Singh v. Ranbir Singh [Jagir Singh v. Ranbir Singh]*, (1979) 1 SCC 560 : 1979 SCC (Cri) 348] and *M.C. Mehta v. Kamal Nath [M.C. Mehta v. Kamal Nath]*, (2000) 6 SCC 213].

78. Further, it has been submitted by the first respondent ***that Section 29-A(5) of the Act is a complete, comprehensive and unambiguous provision of law and any direction to the Election Commission of India to deregister or refuse registration to political parties who associate themselves with persons merely charged with offences would result in violation of the doctrine of separation of powers as that would tantamount to making addition to a statute which is clear and unambiguous.***

79. As per the first respondent, “pure law” in the nature of constitutional provisions and ***the provisions of the Act cannot be substituted or replaced by Judge-made law.*** To advance the said stand, the first respondent has cited the judgments of this Court in *State of H.P. v. Satpal Saini [State*

of *H.P. v. Satpal Saini*, (2017) 11 SCC 42] and *Kesavananda Bharati v. State of Kerala* [*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225] wherein the doctrine of separation of powers was concretised by this Court. It is the contention of the first respondent that answering the present reference in the affirmative would result in violation of the doctrine of separation of powers.

80. The first respondent has also contended that the presumption of innocence until proven guilty is one of the hallmarks of Indian democracy and the said presumption attaches to every person who has been charged of any offence and it continues until the person has been convicted after a full-fledged trial where evidence is led. Penal consequences cannot ensue merely on the basis of charge.

81. Drawing support from the judgment of this Court in *Amit Kapoor v. Ramesh Chander* [*Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460 : (2012) 4 SCC (Civ) 687 : (2013) 1 SCC (Cri) 986], it is averred by the first respondent that the standard of charging a person is always less than a prima facie case i.e. a person can be charged if the facts emerging from the record disclose the existence of all the ingredients constituting the alleged offence and, therefore, the consequences of holding that a person who is merely charged is not entitled to membership of a political party would be grave as it would have the effect of taking away a very valuable advantage of the symbol of the political party.

82. It has been further contended by the first respondent that every citizen has a right under Article 19(1)(c) to form associations which includes the right to be associated with persons who are otherwise qualified to be Members of Parliament under the Constitution of India and under the law made by Parliament. Further, this right can only be restricted by law made by Parliament and any direction issued by the Election Commission of India under Article 324 is not law for the purpose of Article 19(1)(c).

83. The first respondent also submits that the Act already contains detailed provisions for disclosure of information by a candidate in the form of Section 33-A which requires every

candidate to disclose information pertaining to offences that he or she is accused of. This information is put on the website of the Election Commission of India and requiring every member of a political party to disclose such information irrespective of whether he/she is contesting election will have serious impact on the privacy of the said member.

84. Relying upon the decisions in *Union of India v. Deoki Nandan Aggarwal* [*Union of India v. Deoki Nandan Aggarwal*, 1992 Supp (1) SCC 323 : 1992 SCC (L&S) 248] and *Supreme Court Bar Assn. v. Union of India* [*Supreme Court Bar Assn. v. Union of India*, (1998) 4 SCC 409] , the first respondent has submitted ***that Article 142 of the Constitution of India does not empower this Court to add words to a statute or read words into it which are not there and Article 142 does not confer the power upon this Court to make law.***

85. As regards the issue that there is a vacuum which necessitates interference of this Court, the first respondent has contended that this argument is untenable as the provisions of the Constitution and the Act are clear and unambiguous and, therefore, answering the question referred to in the affirmative would be in the teeth of the doctrine of separation of powers and would be contrary to the provisions of the Constitution and to the law enacted by Parliament.”

[emphasis supplied]

47. The Constitution Bench thereafter analysed the provisions of the Symbols

Order and observed thus:

“95. What comes to the fore is that when a candidate has been set up in an election by a particular political party, then such a candidate has a right under sub-clause (3) of Clause 8 to choose the symbol reserved for the respective political party by which he/she has been set up. An analogous duty has also been placed upon the Election Commission to allot to such a candidate the symbol reserved for the political party by which he/she has been set up and to no other candidate.

96. Assuming a hypothetical situation, where a particular symbol is reserved for a particular political party and such a political party sets up a candidate in elections against whom charges have been framed for heinous and/or grievous offences ***and if we were to accept the alternative proposal put forth by the petitioners to direct the Election Commission that such a candidate cannot be allowed to contest with the reserved symbol for the political party, it would tantamount to adding a new ground for disqualification which is beyond the pale of the judicial arm of the State. Any attempt to the contrary will be a colourable exercise of judicial power for it is axiomatic that “what cannot be done directly ought not to be done indirectly” which is a well-accepted principle in the Indian judiciary.***

[emphasis supplied]

48. It could thus clearly be seen that the Constitution Bench has specifically rejected the alternative proposal made by the counsel for the petitioners and the learned Amicus Curiae therein with regard to a direction to the ECI to the effect that a candidate against whom charges have been framed for heinous and/or grievous offences cannot be allowed to contest with the reserved symbol for the political party. The Constitution Bench thus observed that it would tantamount to adding a new ground for disqualification which is beyond the pale of the judicial arm of State. It observed that any attempt to the contrary would be a colourable exercise of judicial power for it is axiomatic that ‘what cannot be done directly ought not to be done indirectly’ which is a well-accepted principle in the Indian Judiciary.

49. Thereafter, after considering various judgments of this Court, the Constitution Bench observed thus:

“105. Thus analysed, *the directions to the Election Commission as sought by the petitioners runs counter to what has been stated hereinabove. Though criminalisation in politics is a bitter manifest truth, which is a termite to the citadel of democracy, be that as it may, the Court cannot make the law.*

106. *Directions to the Election Commission, of the nature as sought in the case at hand, may in an idealist world seem to be, at a cursory glance, an antidote to the malignancy of criminalisation in politics but such directions, on a closer scrutiny, clearly reveal that it is not constitutionally permissible. The judicial arm of the State being laden with the duty of being the final arbiter of the Constitution and protector of constitutional ethos cannot usurp the power which it does not have.*”

[emphasis supplied]

50. The Constitution Bench therefore observes that though criminalisation in politics is a bitter manifest truth, which is a termite in the citadel of democracy, the Court cannot make law. It observes that the directions to the ECI, of the nature as sought in the case at hand, may in an idealistic world, seem, at a cursory glance, to be an antidote to the malignancy of criminalisation in politics, but such directions, on a closer scrutiny, clearly reveal that it is not constitutionally permissible. It goes on to say that as the protector of the constitutional ethos, it cannot usurp the power which it does not have.

51. In paragraph 107, the Constitution Bench recommends that Parliament bring out a strong law whereby it is mandatory for the political parties to

revoke membership of persons against whom charges are framed in heinous and grievous offences and not to set-up such persons in elections. However, the Constitution Bench being not oblivious to the issue of criminalisation of politics and the right of the voters to be aware about the antecedents of the candidates who contest in the election observed thus:

“115. In *PUCL v. Union of India* [*PUCL v. Union of India*, (2013) 10 SCC 1 : (2013) 4 SCC (Civ) 587 : (2013) 3 SCC (Cri) 769 : (2014) 2 SCC (L&S) 648] , the Court held that the universal adult suffrage conferred on the citizens of India by the Constitution has made it possible for these millions of individual voters to go to the polls and thereby participate in the governance of our country. It has been further ruled that for democracy to survive, it is essential that the best available men should be chosen as the people's representatives for the proper governance of the country. *The best available people, as is expected by the democratic system, should not have criminal antecedents and the voters have a right to know about their antecedents, assets and other aspects. We are inclined to say so, for in a constitutional democracy, criminalisation of politics is an extremely disastrous and lamentable situation. The citizens in a democracy cannot be compelled to stand as silent, deaf and mute spectators to corruption by projecting themselves as helpless.* The voters cannot be allowed to resign to their fate. The information given by a candidate must express everything that is warranted by the Election Commission as per law. *Disclosure of antecedents makes the election a fair one and the exercise of the right of voting by the electorate also gets sanctified. It has to be remembered that such a right is paramount for a democracy. A voter is entitled to have an informed choice. If his right to get proper information is scuttled, in the ultimate eventuate, it may lead to destruction of democracy because he will not be an informed voter having been kept in the dark about the candidates who are accused of heinous offences.* In the present scenario,

the information given by the candidates is not widely known in the constituency and the multitude of voters really do not come to know about the antecedents. Their right to have information suffers.”

[emphasis supplied]

52. After observing the aforesaid, the Constitution Bench has issued the directions, which are already reproduced hereinabove.

53. It could thus be seen that a suggestion similar to one which is made to us with regard to directing the ECI for suspending or withdrawing the recognition of political parties which flout the directions, was made before the Constitution Bench by the learned counsel for the petitioner and the Amicus Curiae therein. The Constitution Bench after elaborately considering the said issue, held that issuing such a direction would amount to entering into the legislative arena and as such, such a direction could not be issued. In our view, in the teeth of the observations made by the Constitution Bench in paragraph 96, though some suggestions made by Shri Viswanathan are laudable, it will not be possible for us to accede to them.

54. It will also be relevant to refer to paragraph 40 of the judgment of this Court in the case of ***Indian National Congress (I) v. Institute of Social Welfare and Others***⁸:

“40. It may be noted that Parliament deliberately omitted to vest the Election Commission of India with the power to deregister a political party for non-compliance with the

⁸ (2002) 5 SCC 685

conditions for the grant of such registration. This may be for the reason that under the Constitution the Election Commission of India is required to function independently and ensure free and fair elections. An enquiry into non-compliance with the conditions for the grant of registration might involve the Commission in matters of a political nature and could mean monitoring by the Commission of the political activities, programmes and ideologies of political parties. This position gets strengthened by the fact that on 30-6-1994 the Representation of the People (Second Amendment) Bill, 1994 was introduced in the Lok Sabha proposing to introduce Section 29-B whereunder a complaint could be made to the High Court within whose jurisdiction the main office of a political party is situated for cancelling the registration of the party on the ground that it bears a religious name or that its memorandum or rules and regulations are no longer conforming the provisions of Section 29-A(5) or that the activities are not in accordance with the said memorandum or rules and regulations. However, this Bill lapsed on the dissolution of the Lok Sabha in 1996 (see p. 507 of *How India Votes: Election Laws, Practice and Procedure* by V.S. Rama Devi and S.K. Mendiratta)."

55. It will further be relevant to refer to paragraph 137 in the judgment of this

Court in ***Manoj Narula v. Union of India***⁹:

"137. In this respect, the Prime Minister is, of course, answerable to Parliament and is under the gaze of the watchful eye of the people of the country. *Despite the fact that certain limitations can be read into the Constitution and have been read in the past, the issue of the appointment of a suitable person as a Minister is not one which enables this Court to read implied limitations in the Constitution.*"

[emphasis supplied]

56. It could thus be clearly seen that the Constitution Bench in the above case has held that though certain limitations can be read into the Constitution,

⁹ (2014) 9 SCC 1

the issue of appointment of a suitable person as a Minister is not one which enables the Court to read implied limitations into the Constitution.

57. In our view, for the same reasons, it will not be permissible for this Court to read any implied limitations and issue directions which would indirectly provide for disqualification of a candidate.

58. We now come to the facts pointed out to us by the Petitioner in Contempt Petition (Civil) 656/2020 and learned Amicus Curiae.

59. As far as Janata Dal United [Respondent No. 3] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020 has pointed out that the reasons given by the party for the nomination of a candidate from the Belaganj Assembly are inadequate and not in consonance with the Order of Supreme Court dated 13.02.2020. Further, it has been pointed out to this Court by the learned Amicus Curiae in his report dated 09.04.2021 that the party has filed Form C1 and C2, which specifies the format for publication of criminal antecedents of candidates by the candidates and political parties respectively in newspapers, in a vague and mechanical manner. The Respondent No. 3 has not entered appearance or filed any counter affidavit to controvert this fact as on date of this Order. This being the case, we are of the view that the Respondent No. 3 is in contempt of the Order dated 13.02.2020 for failing to follow the directions of this Court in letter and spirit.

60. As far as the Rashtriya Janta Dal [Respondent No. 4] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020 and the Learned Amicus Curiae in his report dated 09.04.2021 have pointed out that the party has specifically provided 'winnability' as the only reason for selection of its candidates as against those without criminal antecedents. Shri Ajay Vikram Singh, learned counsel appearing on behalf of Respondent No. 4 has taken us through the Counter Affidavit dated 10.04.2021 and Additional Affidavit dated 13.07.2021 and submitted that the party had failed to adhere to the format specified by the ECI due to an inadvertent and bona fide mistake on part of its State Committee and that reasons were given by the party based on its own understanding of the form. On perusal of the aforementioned affidavits, we are of the view that the reason cited by Respondent No. 4 for non-compliance of directions issued by this Court is not acceptable and that the party has cited 'winnability' as the only reason for selection of candidates, which is in the teeth of our directions. This being the case, we are of the view that Respondent No. 4 is in contempt of the Order dated 13.02.2020 for failing to follow the directions of this Court in letter and spirit.

61. As far as the Lok Janshakti Party [Respondent No. 5] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020 has pointed out, from the chart prepared by the ECI in its report dated 02.01.2020, that the party has given identical reasons for nomination of 5 candidates and further

that the publications have not been made in the format that has been prescribed. Further, it has been pointed out that the party has published the details in newspapers which are of low circulation in derogation of the Order dated 13.02.2020. This apart, the learned Amicus Curiae has pointed out in his report dated 09.04.2021 that party has filled Form C1 and C2, which specifies the format of publication of criminal antecedents in newspapers, in a vague and mechanical manner. Shri Shrish Kumar Mishra, learned counsel appearing on behalf of Respondent No. 5 took us through the Counter Affidavit dated 12.07.2021 and has submitted to this Court that the Forms, as required, have been published in various English, Urdu and Hindi newspapers. On perusal of the affidavits as aforementioned, it is undisputed that the party has given identical reasons for selection of 5 of its candidates and has also filled Form C2 in a mechanical manner. This being the case, we are of the view of Respondent No. 5 is in contempt of the Order dated 13.02.2020 for failing to follow the directions of this Court in letter and spirit.

62. As far as the Indian National Congress [Respondent No. 6] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020 has pointed out that the criminal antecedents have been published in newspapers which are of low circulation and that the forms in which details of criminal antecedents have to be published have been filled in a mechanical manner. The learned Amicus Curiae has pointed out in his report dated

09.04.2021 that the party has given reasons along the lines of 'winnability' for the selection of candidates that have been accused of serious offences such as Section 307, Indian Penal Code and Section 506, Indian Penal Code. Shri Nishant Patil, learned counsel appearing on behalf of Respondent No.6 took us through the Counter Affidavit dated 14.07.2021 and submitted that the party had followed all directions issued by this Court and that therefore they were not in contempt of our directions. On perusal of the affidavits as aforementioned, we are of the view that Respondent No. 6 has not followed our directions contained in our Order dated 13.02.2020 in letter and spirit. This being the case, we are of the view of Respondent No. 6 is in contempt of the Order dated 13.02.2020.

63. As far as the Bharatiya Janata Party [Respondent No. 7] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020, has pointed out that the criminal antecedents have been published in newspapers which are of low circulation and that the forms in which details of criminal antecedents have to be published have been filled in a mechanical manner. The ECI through its report dated 01.02.2020 has pointed out that while the party had submitted Form C-8 for 77 candidates, it was identified by the Chief Electoral Officer, Bihar that the party had published criminal antecedents in Form C-7 only for 76 candidates. The learned Amicus Curiae has pointed out in his report dated 09.04.2021 that the party has provided reasons for selection of candidates, by referring to

serious offences such as offences under Section 386 of the Indian Penal Code and Section 506 of the Indian Penal Code and portraying them as cases that are of a trivial nature. Shri Shailesh Madiyal, learned counsel appearing on behalf of Respondent No. 7 referred to written submissions dated 22.07.2021 and submitted that Form C-7 for one of its candidates was not submitted due to an inadvertent error and that the party was otherwise wholly compliant with the directions contained in Order dated 13.02.2020. He further submitted that the party has provided reasons for selection of its candidates which are in line with our directions and that they must not therefore be held to be in contempt. On perusal of the aforementioned affidavits, we are of the view that the reason given by the party for failing to submit Form C-7 in respect of one of its candidates is not acceptable and that the party has not provided reasons for selection of its candidates which are in line with our directions. This being the case, the Respondent No. 7 is in contempt of the Order dated 13.02.2020.

64. As far as the Communist Party of India (Marxist) [Respondent No. 8] is concerned, the ECI in its report dated 01.02.2020 has pointed out that the party is one of the two parties that has not submitted the Form C7 or C8 for any of its candidates and therefore is fully non-compliant with our Order dated 13.02.2020. Shri P.V. Surendranath, learned senior advocate appearing on behalf of Respondent No. 8 took us through the counter affidavit dated 09.07.2021 and submitted that the election

process for the State of Bihar was coordinated by the State Committee of the party and that Form C7 and C8 were not submitted due to oversight on part of the State Committee. He further submitted that the party has attempted to comply with the directions of this Court insofar as declaration of information regarding criminal cases in newspapers and the website of the party is concerned and that the aforementioned act of non-compliance should be viewed as an isolated incident and its unconditional apology be accepted. On perusal of the aforementioned affidavits, we are of the view an oversight on part of the State Committee of the party cannot be a ground for non-compliance of the directions passed by this Court. This being the case, the Respondent No. 8 is in contempt of the Order dated 13.02.2020.

65. As far as the Nationalist Congress Party [Respondent No. 9] is concerned, the ECI in its report dated 01.02.2020 has pointed out that the party is one of the two parties that has not submitted the Form C7 or C8 for any of its candidates and therefore is fully non-compliant with our Order dated 13.02.2020. Shri Kapil Sibal and Shri Ritin Rai, learned senior counsel appearing on behalf of Respondent No. 9 took us through the counter affidavit dated 09.07.2021 and submitted that the party had on 09.03.2020 issued directions to all Presidents/Convenors of the State/Union Territory units of the party to ensure compliance of our Order dated 13.02.2020, however due to the dissolution of the party's State

Committee on 20.07.2020, the directions of this Court could not be complied with in the Bihar Elections. They further submitted that 18 candidates who had been identified by the party as having pending criminal cases had published their criminal antecedents in newspapers and that the aforementioned non-compliance be seen as an isolated incident and its apology be accepted. On perusal of the aforementioned affidavits, we are of the view that the dissolution of the State Committee of the party a few months prior to the election in the State of Bihar cannot be a ground for non-compliance of the directions passed by this Court. The Respondent No. 9 is in complete defiance of the directions contained in our Order dated 13.02.2021 and is therefore in contempt of the Order.

66. As far as the Bahujan Samaj Party [Respondent No. 10] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020 has pointed out that the criminal antecedents have been published in newspapers which are of low circulation and that the forms in which details of criminal antecedents have to be published have been filled in a mechanical manner. The ECI through its report dated 01.02.2020 has pointed out that the party had only submitted requisite details for 27 candidates, while the Chief Electoral Officer, Bihar had found that there were 2 more candidates who had criminal antecedents. The learned Amicus Curiae has pointed out in his report dated 09.04.2021 that the party, in order to flout our directions, has justified the selection of some candidates who

have been accused of heinous offences such as Section 376, Indian Penal Code by stating that there no other applications which have been received for the candidature to that constituency. Shri Dinesh Dwivedi, learned senior advocate appearing on behalf of Respondent No. 10 took us through the Counter Affidavit dated 13.07.2021 and Additional Affidavit dated 13.07.2021 and submitted that the membership of one of the candidates with criminal antecedents whose details were not submitted to the ECI has since been cancelled and the said candidate has been expelled from the party on 14.04.2021 for submitting false affidavits to the party itself. As far as the other candidate identified by the Chief Elector Officer, Bihar is concerned, it has been submitted by the party that the requisite details have been submitted but have not been accounted for by the Chief Electoral Officer, Bihar. On perusal of the aforementioned affidavits, we are satisfied by the explanation given qua the 2 candidates. However, we must caution Respondent No. 10 not to pay lip service to our directions but to follow them in letter and spirit in the future including the directions contained in this judgment.

67. As far as the Communist Party of India [Respondent No. 11] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020 has pointed out that that the criminal antecedents have been published in newspapers which are of low circulation and that the forms in which details of criminal antecedents have to be published have been filled in a mechanical

manner. The learned Amicus Curiae has pointed out in his report dated 09.04.2021 that the party, in order to flout our directions, has justified the selection of some candidates who have been accused of serious offences such as offences under Section 307, Indian Penal Code and Section 506, Indian Penal Code by stating that the cases “do not have any substance”. Shri B.K. Pal, learned counsel appearing on behalf of Respondent No. 11 has referred to the written arguments dated 22.07.2021 and submitted that the party has followed all directions issued by this Court and that any omission pointed out in the filling up of Form C-7 or C-8 may not be viewed as a wilful violation of our directions. On perusal of the aforementioned affidavits, we are of the view that the Respondent No. 11 has not followed the directions contained in our Order dated 13.02.2020 in letter and spirit. This being the case, the Respondent No. 11 is in contempt of the Order dated 13.02.2020.

68. As far as Rashtriya Lok Samta Party [Respondent no. 12] is concerned, the Petitioner in Contempt Petition (Civil) 656/2020 and the learned Amicus Curiae in his report dated 09.04.2021 have pointed out that the party has given the same reason for nominating 5 of its candidates. Respondent No. 12 has not entered appearance or filed any counter affidavit to controvert this fact. This being the case, it is undisputed that the party has given identical reasons for selection of 5 of its candidates in a stereotyped manner. Therefore, we are of the view that Respondent

No. 12 is in contempt of our Order dated 13.02.2020 for failing to follow the directions of this Court in letter and spirit.

69. Though we have held the Respondent No. 3 to 9, 11 and 12 guilty of having committed contempt of our Order dated 13.02.2020, taking into consideration that these were the first elections which were conducted after issuance of our directions, we are inclined to take a lenient view in the matter. However, we warn them that they should be cautious in future and ensure that the directions issued by this Court as well as the ECI are followed in letter and spirit. We direct the Respondent Nos. 3,4,5,6,7 and 11 to deposit an amount of INR 1 Lakh each in the account created by the ECI as specified in this judgment in paragraph 73(iii) within a period of 8 weeks from the date of this judgment. Insofar as Respondent Nos. 8 and 9 are concerned, since they have not at all complied with the directions issued by this Court, we direct them to deposit an amount of INR 5 Lakh each in the aforesaid account within the aforesaid period.

70. Insofar as the ECI is concerned, we accept the argument of Shri Vikas Singh that they cannot be said to have committed any contempt of our Order dated 13.02.2020 as the circumstances pointed out by him clearly show that the ECI did bring to our notice the flouting of our directions contained in the said order. We must, however, caution the ECI to do so as promptly as possible in future so that prompt action may be taken by this Court, it

being understood that the ECI must by itself take prompt action in accordance with the directions contained in this Order.

71. No one can deny that the menace of criminalisation in the Indian political system is growing day by day. Also, no one can deny that for maintaining purity of political system, persons with criminal antecedents and who are involved in criminalisation of political system should not be permitted to be the law-makers. The only question is, whether this Court can do so by issuing directions which do not have foundation in the statutory provisions.

72. This Court, time and again, has appealed to the law-makers of the Country to rise to the occasion and take steps for bringing out necessary amendments so that the involvement of persons with criminal antecedents in polity is prohibited. All these appeals have fallen on the deaf ears. The political parties refuse to wake up from deep slumber. However, in view of the constitutional scheme of separation of powers, though we desire that something urgently requires to be done in the matter, our hands are tied and we cannot transgress into the area reserved for the legislative arm of the State. We can only appeal to the conscience of the law-makers and hope that they will wake up soon and carry out a major surgery for weeding out the malignancy of criminalisation in politics.

73. In furtherance of the directions issued by the Constitution Bench in ***Public Interest Foundation (supra)*** and our Order dated 13.02.2020, in order to make the right of information of a voter more effective and meaningful, we find it necessary to issue the following further directions:

- (i) Political parties are to publish information regarding criminal antecedents of candidates on the homepage of their websites, thus making it easier for the voter to get to the information that has to be supplied. It will also become necessary now to have on the homepage a caption which states “candidates with criminal antecedents”;
- (ii) The ECI is directed to create a dedicated mobile application containing information published by candidates regarding their criminal antecedents, so that at one stroke, each voter gets such information on his/her mobile phone;
- (iii) The ECI is directed to carry out an extensive awareness campaign to make every voter aware about his right to know and the availability of information regarding criminal antecedents of all contesting candidates. This shall be done across various platforms, including social media, websites, TV ads, prime time debates, pamphlets, etc. A fund must be created for this purpose within a period of 4 weeks into which fines for contempt of Court may be directed to be paid;

- (iv) For the aforesaid purposes, the ECI is also directed to create a separate cell which will also monitor the required compliances so that this Court can be apprised promptly of non-compliance by any political party of the directions contained in this Court's Orders, as fleshed out by the ECI, in instructions, letters and circulars issued in this behalf;
- (v) We clarify that the direction in paragraph 4.4 of our Order dated 13.02.2020 be modified and it is clarified that the details which are required to be published, shall be published within 48 hours of the selection of the candidate and not prior to two weeks before the first date of filing of nominations; and
- (vi) We reiterate that if such a political party fails to submit such compliance report with the ECI, the ECI shall bring such non-compliance by the political party to the notice of this Court as being in contempt of this Court's Orders/directions, which shall in future be viewed very seriously.

74. We are extremely indebted to Shri K.V. Viswanathan, learned Amicus Curiae who has assisted this Court in the highest traditions of the Bar. We thank him for his valuable assistance.

75. Contempt Petition (Civil) 656/2020 and M.A.(Diary No. 2680/2021) is disposed of in terms of this judgment.

.....J.
[ROHINTON FALI NARIMAN]

.....J.
[B.R. GAVAI]

**New Delhi;
August 10, 2021.**

ANNEXURE – I

(References are to page numbers in the ECI's affidavit)				
Sr. no. And Page No.	Name of the candidate and Name of the Political Party	Nature of some grave offences against the Candidate	Reason for selection of Candidate	Reason for non -selection of other Candidates
2. (Page 20)	Shri Rajeshwar Raj Bhartiya Janta Party (BJP)	Abetment of offence punishable with death or Imprisonment for life- u/s 115 and 114 of IPC Criminal Intimidation u/s 506 of IPC	He is having a Degree in M.A., LLB. He is a social worker. <u>His Criminal Antecedents are trivial in nature.</u>	Keeping in view, the services rendered by him specially, in the constituency and considering the trivial nature of case he was preferred over other candidates.
4. (Page 22)	Shri Birendra Singh Bhartiya Janta Party (BJP)	Extortion by putting a person in fear of death or of Grievous hurt, in order to commit extortion- u/s 386 of IPC Criminal Breach of trust by a clerk or servant- u/s 408 of IPC	<u>Criminal Cases are not very serious in nature.</u> He is a well known social and political worker having very good reputation in the society.	Criminal cases pending against him are not serious in nature and considering his reputation, the party has preferred his candidature over others.
5. (Page 23)	Shri Pawan Kumar Yadav Bhartiya Janta Party (BJP)	Extortion by putting a person in fear of death or of Grievous hurt, in order to commit extortion- u/s 386 of IPC Criminal Intimidation u/s 506 of IPC Forgery of valuable security, will, etc. u/s 467 of IPC	He is a well known social worker having very good reputation in the society and he has been tirelessly working for welfare and development of the villages. He has contributed a lot in the	Most of these cases are trivial in nature except once in which he has been implicated due to political rivalry. He associated with the people of his area for local development. Hence he

		Forgery for purpose of cheating u/s 468 of IPC	construction of Bandh on local rivers. He has been helping poor children in their education through financial aid and also to underprivileged persons.	has been preferred over any other candidate.
6. (Page 24)	Shri Manoj Kumar Janata Dal (United) [JD(U)]	Theft in dwelling house- u/s 380 of IPC Mischief by fire or explosive with intent to destroy house, etc.- u/s 436 of IPC Voluntary causing grievous hurt- u/s 325 of IPC	He is a popular organic farmer from Bihar. His contribution in the field of chemical free organic agriculture is unparalleled in the state of Bihar. He is seed averse too with large collection of native seeds.	Large number of farmers in Bihar and our party have requested the state party leadership to field him as a candidate. He is more popular than any other aspirants of the party in his constituency.
9. (Page 27)	Shri Narendra Narayan Yadav Janata Dal (United) [JD(U)]	Murder- u/s 302 of IPC Criminal Conspiracy- u/s 120(B) of IPC Using arms and ammunition- u/s 27 of Arms act	He is a Social Worker. He has worked among the downtrodden people and weaker sections of the society. He has motivated poor people in the society to send their children to school.	According to the report received from the local party workers, the popularity and reputation of other aspirants from the constituency does not match that of Shri Narendra Narayan Yadav. Moreover the abovementioned case is 21 year old.

11.	<p>Shri Lokesh Ram</p> <p>Rashtriya Lok Samata Party (RLSP)</p> <p>(RLSP has given the same reason for selection of all their candidates at Sr. nos. 11 to 15)</p>	<p>Refusing to sign statement- u/s 180 of IPC</p> <p>Rioting- u/s 147 & 148 of IPC</p> <p>Lurking house trespass or house breaking by night- u/s 456 of IPC</p> <p>Criminal Breach of trust- u/s 406 of IPC</p>	<p>He is doing social work for many years. The charges have no substance, are politically motivated as per the demand of the local works people in the constituency.</p>	<p>As above as well as amongst the leader of the party found him more suitable and dedicated.</p>
12. (Page 30)	<p>Shri Ram Pukar Sinha</p> <p>Rashtriya Lok Samata Party (RLSP)</p>	<p>Attempt to murder- u/s 307 of IPC</p> <p>Kidnapping or abducting in order to murder- u/s 364 of IPC</p> <p>Voluntary causing hurt by dangerous weapons or means- u/s 324 of IPC</p>	<p>He is doing social work for many years. The charges have no substance, are politically motivated as per the demand of the local works people in the constituency.</p>	<p>As above as well as amongst the leader of the party found him more suitable and dedicated.</p>
13. (Page 31)	<p>Shri Chandrika Paswan</p> <p>Rashtriya Lok Samata Party (RLSP)</p>	<p>Disobedience to order duly promulgated by public servant- u/s 188 of IPC</p>	<p>He is doing social work for many years. The charges have no substance, are politically motivated as per the demand of the local works people in the constituency.</p>	<p>As above as well as amongst the leader of the party found him more suitable and dedicated.</p>

14. (Page 31)	Shri MahendrParsad Singh Rashtriya Lok Samata Party (RLSP)	Voluntarily causing hurt- u/s 323 of IPC Wrongful Restraint- u/s 341 of IPC Voluntarily causing grievous hurt- u/s 325 of IPC Theft- u/s 379 of IPC	He is doing social work for many years. The charges have no substance, are politically motivated as per the demand of the local works people in the constituency.	As above as well as amongst the leader of the party found him more suitable and dedicated.
15. (Page 32)	Shri Ramesh Kumar urf Ramesh Kumar Mehta Rashtriya Lok Samata Party (RLSP)	Cheating and dishonestly inducing delivery of property- u/s 420 of IPC Dishonouring of cheque for insufficiency, etc., of funds in the account- u/s 138 of NI Act	He is doing social work for many years. The charges have no substance, are politically motivated as per the demand of the local works people in the constituency.	As above as well as amongst the leader of the party found him more suitable and dedicated.
17. (Page 34)	Shri Sanjay Ram Bahujan Samajwadi Party (BSP)	Rape- u/s 376 of IPC Procurator of minor girl- u/s 366A of IPC Kidnapping- u/s 363 of IPC Solemnising a child marriage, Permitting or promoting a child marriage- u/s 9,10,11 of Prohibition of Child Marriage Act.	<u>No other Application received.</u>	No charges have been framed by competent court, so keeping in view of his image otherwise also his image as reported by the local office bearers of the party seems to be clean and good and well acceptable in society.
20. (Page 37)	Md. Zama Khan	Attempt to murder- u/s 307 of IPC Voluntary causing grievous hurt- u/s 325 of IPC	In comparison to other candidates and their history, it was found to be suitable being	His image supported by the local office bearers of the party

	Bahujan Samajwadi Party (BSP)	Voluntary causing hurt or grievous hurt to deter public servant - u/s 332,333 of IPC	the candidate stated that false FIR has been lodged against him due to Political vindicta.	as clean and good and well acceptable in the society.
23. (Page 38)	Shri Siddharth Saurav Indian National Congress (INC)	Attempt to murder- u/s 307 of IPC Voluntary causing grievous hurt- u/s 325 of IPC Criminal Conspiracy- u/s 120(B) of IPC Criminal Intimidation u/s 506 of IPC.	The candidate is current MLA.	As per the demand of the local workers and the people in the constituency and around the constituency.
24. (Page 39)	Shri Murari Prasad Gautam Indian National Congress (INC)	Culpable Homicide not amounting to murder- u/s 304 Causing hurt or grievous hurt by act endangering life or personal safety of others- u/s 337, 338 of IPC	He is BA from Magadh University and has a clean track record.	As per the demand of the local workers and the people in the constituency and around the constituency.
35. (Page 44)	Shri Ram Narayan Yadav Communist Party of India (CPI)	Attempt to murder- u/s 307 of IPC Voluntary causing hurt to extort property, or to constrain to an illegal to an act- u/s 327 of IPC Theft in dwelling house- u/s 380 of IPC Theft after preparation made for causing death, or restrain in order to the committing of the theft- u/s 382 of IPC	He is doing social work for many years. Charges don't have any substance and are politically motivated as per the demand of the local work people in the constituency.	As above as well as amongst the leader of the party found him more suitable and dedicated.

		Extortion by putting a person in fear of death or of Grievous hurt, in order to commit extortion- u/s 386 of IPC Criminal Intimidation- u/s 506 of IPC		
36. (Page 44)	Shri Mukesh Kumar Raushan Rashtriya Janata Dal (RJD)	Attempt to murder- u/s 307 of IPC Voluntary causing hurt or grievous hurt to deter public servant - u/s 332,333 of IPC Causing grievous hurt by act endangering life or personal safety of others- u/s 338 of IPC Voluntary causing grievous hurt to extort property, or to constrain to an illegal act- u/s 329 of IPC Criminal Intimidation- u/s 506 of IPC	He is very popular in his area and is very active for the development and welfare of his area. His Educational Qualification is M.A. No other candidate in Party is as good as him.	*<u>His probability of winning is higher than other candidates.</u>
40. (Page 47)	Shri Avinash Manglam Rashtriya Janata Dal (RJD)	Theft in dwelling house- u/s 380 of IPC Mischief by fire or explosive substance with intent to destroy house, etc.- u/s 436 of IPC	He is very popular in his area and is very active for the welfare of the society. He is intermediate pass.	*<u>He is sitting MLA and his probability of winning is higher than other candidates.</u>

***In Direct violation of this Hon'ble Courts order dt 13.02.2020 which said @ para 4(2) that mere winnability cannot be a reason for selecting acandidate with criminal antecedent.**

Date 11th April 2023

Press Release

Analysis of Format C7 - Publication of Reasons Given for Selection of Candidates with Criminal Cases by Political Parties

Gujarat, Himachal Pradesh Assembly Election 2022 and Tripura, Meghalaya and Nagaland Assembly Election 2023

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Content

S.No.	Description	Page Number
1	Introduction	3
2	EC's Directions in compliance with SC orders on Publication of Criminal Cases by Candidates and Political Parties including recording of reasons for selection	4
3	Summary and Highlights of the Report	7
4	Analysis of Format C7 – Gujarat Assembly Elections, 2022	8
5	Analysis of Format C7 – Himachal Pradesh Assembly Elections, 2022	12
6	Analysis of Format C7 -Tripura Assembly Elections, 2023	16
7	Analysis of Format C7 - Meghalaya Assembly Elections, 2023	19
8	Analysis of Format C7 - Nagaland Assembly Elections, 2023	23
9	Observations by ADR	26
10	Recommendations by ADR	29
11	Contact Information	37

Introduction

On 13th February 2020 the Supreme Court had directed political parties ***to list out reasons on their website including their social media platforms for nominating candidates with criminal background within 72 hours of the selection of such candidates.*** This direction of the Apex Court had come in the light of a contempt petition filed against the non-implementation of its earlier order dated **25th September, 2018** on publication of criminal cases by candidates and political parties which clearly were not taken very seriously. Consequently, the Supreme Court had reprimanded political parties for failing to widely publish the details of criminal cases pending against the candidates selected by them. Going one step further, the Supreme Court in its directions had also specifically instructed political parties ***to give reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates.*** As per these mandatory guidelines, the reasons for such selection have to be with reference to ***qualifications, achievements, and merit of the candidate*** concerned. Sadly, even these directions of the Supreme Court have had no effect on the political parties in selection of candidates as they have again followed their old practice of giving tickets to candidates based on ***'Muscle and Money power'***. On 15th July 2021 and 20 July 2021, the Supreme Court again considered the contempt by political parties against the wilful disobedience of the Apex Court's order dated 13th February 2020. While observing the egregious default by political parties, the Supreme Court also stated ***that neither the Legislature nor the Political Parties will ever be keen on taking steps to stop the entry of candidates charged with criminal cases.***

In order to curb this blatant practice of giving tickets to candidates with criminal background, the SC has, lately given four orders; **10th March, 2014 (Trial within one year); 1st November, 2017 (Special 11 fast-track courts); 25th September, 2018 (Publication of criminal cases); 13th February, 2020 (Reasons for giving tickets to candidates with criminal cases).** Unfortunately, none of these orders have been able to dissuade parties from giving tickets to candidates with criminal background rather than entry to ***clean, credible and honest candidates.***

¹ https://main.sci.gov.in/supremecourt/2020/24482/24482_2020_32_11_28409_Order_15-Jul-2021.pdf

² https://main.sci.gov.in/supremecourt/2020/24482/24482_2020_32_1_28730_Order_20-Jul-2021.pdf

³ https://adrindia.org/sites/default/files/Supreme_Court_10-03-2014_daily_order_in_PFI_vs_UOI_0.pdf

⁴ https://adrindia.org/sites/default/files/Order_dated_01_-_Nov_-_2017_Ashwini_Upadhaya_case.pdf

⁵ https://adrindia.org/sites/default/files/judgment_on_de-criminalization_25-Sep-2018.pdf

⁶ https://adrindia.org/sites/default/files/Supreme_Court_judgement_dated_13th_Feb_2020_in_Contempt_petition_No_2192_of_2018.pdf

EC's directions (in its letters dated 6th Mar'20 & 10th Oct'18) in compliance with SC orders dated 25th September 2018 and 13th February 2020 on Publication of Criminal Cases by Candidates and Political Parties including recording of reasons for selection

ECI's Letter dated 6th March 2020 in compliance with Supreme Court directions dated 13th February 2020 stated:

- 1) It is mandatory for **political parties** at the Central and State election level to upload on their **website detailed information regarding candidates with pending criminal cases including the nature of offences, relevant particulars like whether charges have been framed, the concerned court, the case number etc.**
- 2) **Political parties** will also have to give reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates.
- 3) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and **not mere “winnability”** at the polls.
- 4) This information shall also be published in: (a) One local vernacular newspaper and one national newspaper; (b) On the official social media platforms of the political party, including Facebook and Twitter.
- 5) These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations whichever is earlier. For ensuring periodic awareness of electors during the campaign, ECI has now prescribed following timeline for publicity of criminal antecedents during the period starting from the day following the last date of withdrawal and up to 48 hours before ending with the hour fixed for conclusion of poll,
 - Within first 4 days of withdrawal of nominations,
 - Between next 5th - 8th days.
 - From 9th day till the last day of campaign (the second day prior to date of poll) the day

6) The **political party** concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.

7) If a **political party fails to submit such a compliance report** with the Election Commission, the Election Commission shall bring such non-compliance by the political party concerned to the notice of the Supreme court as being in contempt of this court's orders/directions

ECI's Letter dated 10th October 2018 in compliance with Supreme Court directions dated 25th September 2018:

For Candidates:

1. Each contesting candidate shall fill up the form as provided by the Election Commission and the form ***must contain all the particulars as required*** therein.
2. It shall state, ***in bold letters, with regard to the criminal cases pending against the candidate.***
3. If a candidate is contesting an election on the ticket of a particular party, ***he/she is required to inform the party about the criminal cases pending against him/her.***

For Political Parties:

1. The concerned political party shall be ***obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.***

Both Political Party and Candidates:

1. It is mandatory for **political parties** and **candidates** with criminal antecedents to publish the declaration ***atleast on three different dates from the date following the last date of withdrawal of candidatures and up to two days before the date of poll.*** The matter should be published in font size of at least 12 and should be placed suitably in newspapers. In case of ***declaration in TV Channels, the same should be completed before a period of 48 hours ending with hours fixed for conclusion of poll.*** There is a format provided by ECI for such a declaration by the candidates and political parties.

2. In case of non-compliance of the direction by the ***candidate/political parties, the returning officers will give a written reminder*** to them and in the event of non-compliance till the end of the elections, ***the returning officer will report to the state's Chief Electoral Officer who will intimate ECI. ECI will take a final decision in the matter.*** The standard format for such a reminder to the candidates and political parties is also annexed in the letter.
3. ***All political parties; recognized parties and registered unrecognized parties shall submit a report to the CEO of the concerned state stating that they have fulfilled the requirements of the directions and enclosing herewith the paper cuttings containing the directions.*** This shall be done within 30 days of the completion of elections. Thereafter, within the next 15 days, the CEO should submit a report to the ECI confirming compliance and pointing out cases of defaulters.

Format/Forms issued by ECI in pursuant to the aforementioned SC directions

It is to be noted that **Form C7 and C8** should be ***duly signed by the office bearer of a political party with proper name and designation.*** Form C8 shall also bear ***seal of the concerned political party.***

Format/Form	Action to be taken by	Platform
C1	Candidates	To publish information regarding criminal background in Newspapers and TV
C2	Political Parties	To publish information regarding criminal background in Newspapers, TV and Political party's website
C7	Political Parties	To publish information regarding criminal background <i>along with reasons</i> in Newspapers, social media platforms, website of political parties
C8	Political Parties to the Election Commission of India	Compliance Report with respect to the SC judgment dated 13th Feb, 2020

Summary and Highlights

Association for Democratic Reforms (ADR) has analysed **Format C7** of **307** candidates, who contested in the **Gujarat, Himachal Pradesh assembly election 2022** and **Tripura, Meghalaya and Nagaland assembly election 2023**:

This data has been compiled from political parties' websites as well as social media handles that were functional before and during the period of the above-mentioned State assembly elections. Most political parties published details as per form C7 on their social media handles such as Twitter. It must be noted that in some cases, parties may have published these details (elsewhere) and it may not have appeared in our records.

S.No	State	Total Contesting Candidates	Number of Political Parties Analysed	Contesting Candidates Analysed from Shortlisted Political Parties	Number of Candidates Analysed with Declared Criminal Cases	No. of Candidates with Criminal Cases having a Published Format C7
1	Gujarat	1621	8	687	166	141
2	Himachal Pradesh	412	8	303	77	31
3	Tripura	259	5	181	38	14
4	Meghalaya	375	8	305	20	14
5	Nagaland	184	5	106	6	4
Total		2851	34*	1582	307	204

34*

No. of Political Parties Analysed Across the 5 States

204

No. of Candidates with Criminal Cases having a Published Format C7 (66%)

103

No. of Candidates with Criminal Cases whose Format C7 is not Published (34%)

**Some political parties are common in all the states*

Analysis of Format C7 – Gujarat Assembly Elections, 2022

Political parties analysed:

Out of all the National and State political parties which contested in the **Gujarat 2022** Assembly Elections, the following **8** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Bahujan Samaj Party
3. Indian National Congress
4. Communist Party of India (Marxist)
5. Jan Sewa Driver Party
6. Aam Aadmi Party
7. All India Majlis-e-Ittehadul Muslimeen
8. Jan Sangharsh Virat Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **687** contesting candidates analysed, **166 (24%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **687** contesting candidates analysed belonging to the aforementioned political parties, **100 (15%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **166** candidates with criminal cases, reasons have been furnished for **141 (85%)** candidates.
 - Out of **100** candidates with serious criminal cases, reasons have been furnished for **89 (89%)** candidates.
 - For **25 (15%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

• **Reasons given for top 3 candidates** with highest number of total criminal cases:

S.No.	Name of Candidate	Constituency	Political Party	No. of cases	Serious IPC Counts	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
1	Hardik Bharatbhai Patel	VIRAMGAM	BJP	22	16	He is well known publicly accepted leader and has been in responsible position attached to social service.	As mentioned above in comparison to other individuals without criminal antecedents this candidate is quite accepted amongst the general mass and is also considered to be popular amongst the youth.
2	Gopalbhai Gordhanbhai Italia	KATARGAM	AAP	19	7	That in spite of under prosecution the candidate is a man of fight for social causes and qualities. He is well educated (B.A.L.L.B) to this he has a good reputation in society of Surat especially in Patidar Samaj. He helps poor and needy people of the society and struggle for them. He is liked by all the people of his area. The case filed with malafide intentions during andolan-protest by the companies against whom the police has filed this case. The hazardous waste disposal facilities have adverse impacts over the local people's health and ecology. Thus during struggle this case was filed. There was negligible damage to police vehicle only on glass was broken thus they didn't involve in this damage to public property at all.	His work for the society made him the appropriate candidate for the party against other candidate
3	Alpesh Kathiriya	VARACHHA ROAD	AAP	13	10	That in spite of under prosecution the candidate is a man of fight for social causes and qualities. He is well educated (LL.B) to this he has a good reputation in society of Surat especially in Patidar Samaj. He helps poor and needy people of the society and struggle for them. He is liked by all the people of his area. The case filed with malafide intentions during andolan-protest by the companies against whom the police has filed this case. The hazardous waste disposal facilities have adverse impacts over the local people's health and ecology. Thus during struggle this case was filed. There was negligible damage to police vehicle only one glass was broken thus they didn't involve in this damage to public property at all.	He is the most deserving and the accomplished candidate.

Table: Reasons given for top 3 candidates with highest number of total criminal cases

- Top commonly stated reasons by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
He is well known publicly accepted leader and has been in responsible position attached to social service	No other candidate was found of similar stature.
That in spite of under prosecution the candidate is a man of fight for social causes & qualities. He is well educated	No such prospect found to replace him.
The selected candidate is a very senior and dedicated party worker	This candidate is a sitting MLA and is well accepted in his constituency by the people
The charge has not even been framed till today	All the cases are registered for public issue since he is working for the public
He has a good reputation in society	As a senior party worker he had an edge over other individuals considering the fact that whatever charges are alleged in the charge sheet have no substance and are purely with a vindictive approach and personal vendetta being waged by his political enemies. Therefore, he is selected as candidate

Table: Top 5 commonly stated reasons by political parties for selection of candidates with criminal background

- Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
BJP	32	4	13%
INC	60	2	3%
BSP	2	2	100%
AAP	61	13	21%
AIMIM	4	4	100%
Jan Sangharsh Virat Party	1	0	0%
Jan Sewa Driver Party	4	0	0%
CPI(M)	2	0	0%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

• **Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Rajeshbhai Mangubhai Patel	3	AAP
Govindbhai Rajibhai Parmar	3	BJP
Rathwa Radhikaben Amarsinghbhai	2	AAP

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

• **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks
BJP	Around 70% the candidates with cases against them have given the same word to word reasons for the selection of the candidate. Selection shall be with reference to the qualifications, achievements and merit of the candidate, and not mere "winnability" at the polls Refer Party Website Link Given Here : https://bjpgujarat.org/form-c7-for-assembly-candidates/
INC	Around 80 % the candidates with cases against them have given the same word to word reason in the both sections for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates Refer Party Website Link Given Here : https://www.incgujarat.com/format-c-7/
AAP	The Form C7 was uploaded on their party website but there is no signature of the office bearer. Refer Party Website Link Given Here : https://aamaadmiparty.org/candidates-with-criminal-antecedents-in-Gujarat-c7-details/

Financial Background

- **Crorepatri Candidates:** Out of the 166 candidates, 97 (58%) are crorepatis.
- **High Assets Declared:** Highest declared total assets of **top 3 candidates**, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	Cases Total	Serious IPC Counts	Total Assets Declared (Rs.)
1	Indranil Rajguru	Rajkot east	INC	1	0	1,62,92,89,224 162 Crore+
2	Jawaharbhai Pethalajibhai Chavda	Manavadar	BJP	2	2	1,30,15,80,411 130 Crore+
3	Bhachubhai Dharamshi Aarethiya	Rapar	INC	2	3	97,48,74,784 97 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Himachal Pradesh Assembly Elections, 2022

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Himachal Pradesh 2022** Assembly Elections, the following **8** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Bahujan Samaj Party
3. Aam Aadmi Party
4. Communist Party of India (Marxist)
5. Indian National Congress
6. Bhartiya Veer Dal
7. Himachal Jan Kranti Party
8. Rashtriya Devbhumi Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **303** contesting candidates analysed, **77 (25%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **303** contesting candidates analysed belonging to the aforementioned political parties, **38 (13%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **77** candidates with criminal cases, reasons have been furnished for **31 (40%)** candidates
 - Out of **38** candidates with serious criminal cases, reasons have been furnished for **17 (45%)** candidates
 - For **46 (60%)** candidates with criminal background, no reasons for their selection have been provided by political parties

- **Reasons given for top 3 candidates** with highest number of total criminal cases:

S.No.	Name of Candidate	Constituency	Political Party	No. of cases	Serious IPC Counts	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
1	Rakesh Singha	Theog	CPI(M)	30	6	Format C7 available in the party website but not readable	
2	Kuldip Singh Tanwar	Kasumpti	CPI(M)	20	2	Format C7 available in the party website but not readable	
3	Manish Kumar Thakur	Paonta Sahib	AAP	19	0	Cases against more in numbers and party after going through the FIR's of each case found that the cases registered mostly during the agitations led by him & he has been fighting for the rights of the people.	His grit and determination to fight for the rights of the people made him the choice of the candidate of AAP over other candidate.

Table: Reasons given for top 3 candidates with highest number of total criminal cases

- **Top commonly stated reasons given by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Meritorious Candidate	Since the Candidate is Meritorious Socially Active
Criminal case which seems to be a politically motivated he is a working for the downtrodden and poor people.	He has been the most deserving and accomplished candidate
Well known social worker	He is the most deserving and the accomplished candidate.
In comparison to the other candidates and their history, it was found to be suitable being the candidate has stated that false FIR has been lodged against him	The offences are not grave one, seem to be based on political vendetta. His Image supported by the local office bearers of the party as clean and good

Table: Top commonly stated reasons given by political parties for selection of candidates with criminal background

- Political parties that did not publish reasons for selection of candidates with criminal background*:**

Party Candidate	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
INC	36	36	100%
AAP	12	0	0%
BJP	12	1	8%
BSP	2	1	50%
CPI(M)	7	0	0%
Bhartiya Veer Dal	1	1	100%
Himachal Jan Kranti Party	1	1	100%
Rashtriya Devbhumi Party	6	6	100%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

- Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Vikramaditya Singh	11	INC
Kuldeep Singh Rathore	8	INC
Uttam Chand	5	Bhartiya Veer Dal

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

- **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks
BJP	All the candidates with cases against them have given the same word to word reason for the selection of the candidate. Refer Party Website Link Given Here: https://www.bjp.org/files/election-documents/candidates_format_C7_page_11.pdf
CPI(M)	Format C7 available in the party website but not readable Refer Party Website Link Given Here: https://cpim.org/page/elections-2022

Financial Background

- **Crorepati Candidates:** Out of the **77** candidates, **58 (75%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of top 3 candidates, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	Cases Total	Serious IPC Counts	Total Assets Declared (Rs.)
1	Vikramaditya Singh	Shimla Rural	INC	11	1	1,01,39,61,033 101 Crore+
2	R.S. Bali	Nagrota	INC	3	0	92,36,27,042 92 Crore+
3	Ram Kumar	Doon	INC	1	6	73,76,21,068 73 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Tripura Assembly Elections, 2023

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Tripura 2023** Assembly Elections, the following **5** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Indian National Congress
3. All India Trinamool Congress
4. Communist Party of India (Marxist)
5. Tipra Motha Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **181** contesting candidates analysed, **38 (21%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **181** contesting candidates analysed belonging to the aforementioned political parties, **18 (10%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **38** candidates with criminal cases, reasons have been furnished for **14 (37%)** candidates
 - Out of **18** candidates with serious criminal cases, reasons have been furnished for **7 (39%)** candidates
 - For **24 (63%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

• **Reasons given for top 3 candidates with highest number of total criminal cases:**

Name of Candidate	No. of cases	Serious IPC Counts	Political Party	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Pabitra Kar	8	0	CPI(M)	Format C7 not published by political party on official website and Social media handles	
Dipankar Sen	4	0	CPI(M)	Format C7 not published by political party on official website and Social media handles	
Krishnendu Choudhury	4	0	CPI(M)	Format C7 not published by political party on official website and Social media handles	

Table: Reasons given for top 3 candidates with highest number of total criminal cases

• **Top commonly stated reasons given by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Very well known for his active social work in his area.	The offences against the candidate are not grave and based on political vendetta.
Respectable and eminent personality	Others lack popularity among the public.
Well-known social worker	Has been a loyal member of the party.
Very popular amongst the local population	Has a good understanding of the area.

Table: Top commonly stated reasons given by political parties for selection of candidates with criminal background

• **Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
INC	7	7	100%
BJP	9	0	0%
AITC	5	0	0%
CPI(M)	13	13	100%
Tipra Motha Party	4	4	100%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

- **Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Pabitra Kar	8	CPI(M)
Dipankar Sen	4	CPI(M)
Krishnendu Choudhury	4	CPI(M)

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

- **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks (Refer annexure 1)
AITC	All the candidates with cases against them have given the same word to word in the both sections reasons for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates (Refer annexure 1)

Financial Background

- **Crorepatri Candidates:** Out of the **38** candidates, **9(24%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of top 3 candidates, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	Cases Total	Serious IPC Counts	Total Assets Declared (Rs.)
1	Sudip Roy Barman	AGARTALA	INC	3	6	9,07,91,072 9 Crore+
2	Satyaban Das	PABIACHARA (SC)	INC	2	2	4,57,92,214 4 Crore+
3	Birajit Sinha	KAILASHAHAR	INC	3	0	2,94,48,721 2 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Meghalaya Assembly Elections, 2023

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Meghalaya 2023** Assembly Elections, the following **8** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Indian National Congress
3. All India Trinamool Congress
4. National People's Party
5. Garo National Council
6. Republican Party of India (A)
7. Voice of the People Party
8. United Democratic Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **305** contesting candidates analysed, **20 (7%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **305** contesting candidates analysed belonging to the aforementioned political parties, **16 (5%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **20** candidates with criminal cases, reasons have been furnished for **14 (70%)** candidates
 - Out of **16** candidates with serious criminal cases, reasons have been furnished for **11 (69%)** candidates
 - For **6 (30%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

• **Reasons given for top 3 candidates with highest number of total criminal cases:**

Name of Candidate	No. of cases	Serious IPC Counts	Political Party	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Bernard N. Marak	14	22	BJP	He is a person who has been engage in social service for the people of the constituency for the past many years. He was found to have good understanding of the ground situation and share a good rapport with the voters here.	The BJP firmly believes in fielding candidate who can best represent the aspirations of the people of the constituency. Thus, he has been chosen over the others.
Champion R. Sangma	12	22	INC	Shri Champion R Sangma has work relentlessly for the upliftment and development of people from his area and he is well respected.	Shri Champion R Sangma has work relentlessly for the upliftment and development of people from his area and he is well respected.
Vincent T Sangma	4	7	AITC	Shri. Vincent T. Sangma is a very sincere and dedicated party worker having deep roots in 25-Mawsynram (ST) Assembly	Shri. Vincent T. Sangma is a very sincere and dedicated party worker having deep roots in 25-Mawsynram (ST) Assembly

Table: Reasons given for top 3 candidates with highest number of total criminal cases

• **Top commonly stated reasons given by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Social worker for many years	The party selects those candidates whose name has been unanimously decided upon by party workers.
Work relentlessly for the upliftment and development of people from their area and they are well respected.	No one was better than them.
Case against them is politically motivated, political rivalry, vendetta etc.	Others lack popularity among public.

Table: Top commonly stated reasons given by political parties for selection of candidates with criminal background

- Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
AITC	3	0	0%
BJP	1	0	0%
Garo National Council	1	1	100%
INC	6	2	33%
NPP	6	0	0%
Republican Party of India (A)	1	1	100%
UDP	1	1	100%
Voice of the People Party	1	1	100%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

- Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Nikman Ch. Marak	4	Garo National Council
Ashahel D. Shira	2	UDP
Panseng R. Marak	1	Republican Party of India (A)

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

- **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks (Refer annexure 2)
INC	All the candidates with cases against them have given the same word to word reasons in the both sections for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates
AITC	All the candidates with cases against them have given the same word to word reasons in the both sections for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates

Financial Background

- **Crorepati Candidates:** Out of the **20** candidates, **13 (65%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of **top 3 candidates**, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	No. of Cases	Serious IPC Counts	Total Assets Declared (Rs.)
1	Ashahel D. Shira	Rajabala	UDP	2	4	85,09,18,578 85 Crore+
2	Deborah C. Marak	William Nagar (St)	INC	1	2	20,02,66,991 20 Crore+
3	Richard Singh Lyngdoh	Raliang (St)	INC	1	1	15,25,59,369 15 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Nagaland Assembly Elections, 2023

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Nagaland 2023** Assembly Elections, the following **5** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Indian National Congress
3. Naga People's Front
4. Rising People's Party
5. Nationalist Democratic Progressive Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **106** contesting candidates analysed, **6 (6%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **106** contesting candidates analysed belonging to the aforementioned political parties, **3 (3%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **6** candidates with criminal cases, reasons have been furnished for **4 (67%)** candidates
 - Out of **3** candidates with serious criminal cases, reasons have been furnished for only **1 (33%)** candidate
 - For **2 (33%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

• **Reasons given for top 3 candidates with highest number of total criminal cases:**

Name of Candidate	No. of cases	Serious IPC Counts	Political Party	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Vikato Aye	1	5	NPF	Format C7 not published by political party on official website and Social media handles	
A. Pangjung Jamir	1	1	BJP	Candidate was serving as a Govt. Officer in the land resource department of Government of Nagaland when due professional rivalry he was falsely targeted and a roped in a false case through a supplementary charge sheet. Order of Cognizance against him has stayed by the Hon'ble Kohima bench of the Hon'ble High Court of Guwahati vide order dated 06.08.2018 WP (CRL.) 4(K) of 2018. He continued to serve his employment and gracefully retired on 21.01.2023. The candidate is a respectable member of the society and was selected after the internal survey of the party's workers.	He is an educated person who is committed to serve his community and was selected after an internal survey with the party grass-root workers. The view of grass-root worker of the party is that the he will be acquitted even if case against is taken to trial. He is a knowledgeable person with a good supervisory and administrative skills therefore he will be able to use the system efficiently to the benefit of his assembly. Due to these reasons he is a better suited candidate.
Neiba Kronu	1	1	NDPP	Format C7 not published by political party on official website and Social media handles	

Table: Reasons given for top 3 candidates with highest number of total criminal cases

• **Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
BJP	1	0	0%
INC	1	0	0%
NDPP	2	1	50%
NPF	1	1	100%
Rising People's Party	1	0	0%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

Financial Background

- **Crorepati Candidates:** Out of the **6** candidates, **3 (50%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of top 3 candidates, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Political Party	No. of Cases	Serious IPC Counts	Total Assets Declared (Rs.)
1	Neiba Kronu	NDPP	1	1	14,05,00,856 14 Crore+
2	G Ikuto Zhimomi	NDPP	1	0	11,15,01,829 11 Crore+
3	A. Pangjung Jamir	BJP	1	1	4,13,57,965 4 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Observations by ADR

I. General:

Functioning of our political parties can only be regulated by adopting stringent measures which are enforced by concerned agencies like the ECI and the law and order machinery. Mere warnings issued to political parties will not help the cause. In 2015, the Supreme Court had left it to the wisdom of the Prime Minister and Chief Ministers of the states to not appoint ministers in their cabinet with criminal backgrounds. However, since 2015, the crime rate in the legislative offices has only escalated further. On 30th August, 2020 the Madras High Court had not only asked the Central Government to ***“enact a law to prohibit candidates with criminal background contesting the elections to the Parliament as well as State legislatures”*** but had also emphasized that ***“the Central Government has to come out with a comprehensive legislation to prohibit persons with criminal background from contesting elections to Parliament, State Legislatures and local bodies”***.

The stipulation that more people who are ***honest, fair, credible, capable and men of character and integrity***, should contest elections and be the key policy makers, holds no ground in the Indian Political System. Over the years, political establishments have completely disregarded or intentionally side-lined the reforms suggested by various committees, citizens and civil societies. It is on record that various recommendations given by several committees dating as far back as 1999, are lying un actioned.

In the Format C7, under the column where ***“Reasons as to why other individuals without criminal antecedents could not be selected”***, it is noticed that in most cases, instead of giving cogent answers to the question, justification is given as to why the candidate in question has been selected.

How casually political parties take the SC and ECI directions is evident from the list of C7 format available on the websites of BJP, CPI(M), INC, AAP, AITC and others for the 2022 and 2023 assembly elections. While giving reasons for fielding candidates with criminal cases, the exact same reasons have been replicated for all candidates. Refer to Annexure 1 and 2 of this report.

II. Blatant contempt of the Supreme Court directions:

ADR's analysis of publication of criminal antecedents by political parties reveals major shortcomings in the implementation of the SC judgement. Several political parties, regardless of their current political outreach and popularity, ***did not have a functional website*** to publish details of candidates with criminal background along with reasons, or they were not uploaded on the websites and on social media platforms which made it difficult to access these forms. There were yet others that had a separate section dedicated for election information, but they either ***failed to upload necessary documents or had dysfunctional website tabs***. Notably, even among the few political parties that published Format C7's within the stipulated time period, there were some grave problems which emerged upon analysis of the information provided through these affidavits. These included a) ***justifying fielding of tainted candidates with unfounded and baseless reasons like chances of winning, popularity of the person, does good social work, offences not being grave in nature, cases are politically motivated***, b) ***repetition of reasons*** outlined through forms, not just for candidates within a single political party, but also for those contesting on behalf of other parties; and c) ***publication of Format C2 (information with particulars on criminal cases pending against candidates) but not Format C7 (information regarding pending criminal cases along with reasons)***.

Other discrepancies include ***omission of crucial information*** on affidavits, such as name of candidate and reason for selection (which is the primary purpose of Format C7), as well as ***submission of data in incorrect (letter) format***. This is especially of concern in light of the total number of pending cases against the candidates in question, and their categorisation under 'serious criminal cases'. ***It is also important to note that for all the State Assembly elections, reasons for inclusion of independent candidates with criminal background has not been provided on any public platform.***

III. Strong muscle and money nexus cannot be reprimanded by mere pious hopes:

Criminal elements have been playing a major role in the electoral process in India both as candidates for elections and as party workers. The nexus between politicians, bureaucrats, and criminal elements in our society has been on the rise, the adverse effects of which are increasingly being felt on various aspects of social life in India. ***Such a strong criminal political bureaucratic nexus in our electoral and political process has to be confronted with resolve and determination by ECI and law enforcement agencies.***

The present law i.e. section 8 of the Representation of People's Act, 1951 and the repeated orders issued by courts have not been able to deter politicians with criminal backgrounds from occupying high offices as MPs, MLAs and Ministers. Conviction rate under our judicial system has been falling over the years. More importantly, the time taken for trials is unduly long. In addition, politicians do not even diligently or properly furnish each

and every information as required under Form 26 or without constant reminders and warnings by the Election Commission of India. The result is that the law breakers have become law makers.

IV. Absence of Law, Rules, and Regulations:

There is no well-defined process in the selection of candidates by the political parties. There is no law for regulating the functioning of political parties. There is no way to penalise the office bearers of the political parties in case of any conflict or contravention with rules or laws. Political parties have blatantly refused to come under RTI law. Tickets are given to the candidates for contesting elections on the sole basis of winnability factor. Historically, it has been observed that muscle power and money power make a winning combination. Candidates with criminal background quietly make their foray into the Lok Sabha and State Assembly elections as political parties do not hesitate in giving tickets to such candidates.

V. How and when will the contempt action be taken?

In view of the Supreme Court's orders dated 25th September, 2018 and 13th February, 2020 and as per the ECI's letter dated 6th March, ***"if a political party fails to submit such compliances report with the Election Commission, the Election commission shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as being in contempt of this Court's orders/directions"***. However, there is no information available about any such contempt action having been taken against these political parties. In reality, citizens are not sure whether the ECI has reported to the Supreme Court the non-compliance of its directions by some political parties in the recently held elections. It is also not clear if the ECI even keeps a tab over the submission and maintenance of these forms.

Recommendations by ADR

There is no dearth of solutions to curb the ever-growing problem of criminality in politics. ***What is required is the courage and will to do the same. Lawmakers will not frame laws that ban the unimpeded and unchecked entry of politicians with criminal cases. Constitutional bodies and institutions will continue to take refuge under reasons like 'lack of power'.*** In fact, on 20th July, 2021 while hearing the contempt petition against publication of reasons for selection of candidates with criminal cases by political parties, the Bench headed by Justice R.F Nariman and Justice B.R Gavai had added, ***"We are certain that the legislative branch will not take this forward, not only in the foreseeable future, but at any time in the future"*** Given the current situation, where all political parties stand united and determined to stall any attempts to bring accountability, transparency, and fairness in our electoral process, it becomes imperative to remind the key duty holders of their role duties in preserving, protecting, and defending the Constitution. The only way to remedy the existing problem of criminalization is to immediately act upon the plausible solutions offered by the judiciary, various committees, civil society, and citizens.

Until and unless these trends are not reined in, our current electoral and political situation is bound to deteriorate further. It is after all the electorate, who has to suffer on account of criminalization and often can do little but helplessly participate in the election of the mighty and moneyed criminal elements. ADR, therefore, proposes following recommendations that need to be acted upon immediately ***without further delay and damage to our Participatory democracy and Rule of Law.***

I. Criteria for selection of candidates: There should be a strict criterion for selection of candidates by political parties. As per the ***Supreme Court judgment*** dated ***13th February 2020***, political parties are already required to give ***reasons for selection*** of candidates and ***why other individuals without criminal antecedents could not be selected as candidates.*** As per the judgment the reasons as to selection shall be with reference to the ***qualifications, achievements and merit of the candidate concerned***, and not mere ***"winnability"*** at the polls.

II. Disqualification on charges framed: Problem of criminalization can be tackled if such tainted candidates are outrightly banned from entering the electoral process based on both stage and degree of crime. This can be achieved by ***disqualifying candidates from contesting elections to the public offices against whom 'charges have been framed by court' for having committed serious criminal offences punishable by imprisonment of at least 5 years, and the case is filed at least 6 months prior to the election in question.***

III. **Permanent disqualification for heinous offences:** It is reprehensible to have a Lawmakers charged/convicted of heinous crimes making laws for citizens and policies for the nation. ***There should be a permanent disqualification of candidates convicted for heinous crimes like murder, rape, smuggling, dacoity, kidnapping, robbery etc.***

IV. **List of political parties to be prepared and shared by ECI:** Election Commission of India is expected to implement the 25th September, 2018 and 13th February, 2020 SC orders in its letter and spirit by listing out names of such tainted candidates selected by the political parties along with such reasons for such selection. ***This list needs to be religiously prepared and submitted to the Supreme Court after every election and the same should be uploaded on ECI's website for public inspection.***

V. **Contempt action against its orders by Supreme Court:** The Supreme Court of India being the ultimate custodian of "Justice and Rule of Law" should take note of the current situation and ***reprimand political parties and politicians for such contempt, complete lack of will, reprehensible predilection and absence of required laws.*** In addition, the Supreme Court should also ***immediately take a strict contempt action against political parties, their office bearers and candidates for blatantly bypassing its 25th September 2018 and 13th February 2020 orders.***

VI. **Cancellation of Tax Exemption given to the political parties:** Tax exemption given to the political parties under Section 13A of the Income Tax Act, 1961 and Section 29 C (4) of the Representation of People Act, 1951 ***should be cancelled for those parties who have deliberately side-lined the SC orders by giving tickets to undeserving, dishonest, corrupt, moneyed and tainted candidates.***

VII. **De-recognition of political parties:** Failure to abide by the Supreme Court directions dated 25th September 2018 and 13th February 2020 should be treated as a serious breach under Paragraph 16A of the Election Symbols (Reservation and Allotment) Order, 1968. Paragraph 16A gives power to the Commission to suspend or withdraw recognition of a recognised political party for its failure to observe Model Code of Conduct or follow lawful directions and instructions of the Commission. Therefore, ***the Election Commission of India should invoke its powers under Paragraph 16A read with Article 324 of the Constitution and suspend or withdraw recognition of a recognized political party for its incessant failure and disobedience of the SC directions.***

VIII. **Parties must face consequences for breach:** Political Parties must realize that the aforementioned ***SC directions are mandatory and therefore the compliance is not optional.*** Parties should be held accountable for brazenly defying the Supreme Court's order dated 25th September, 2018 and 13th February 2020. ***There should be a heavy financial penalty levied on them for making insufficient disclosures, invalid and common reasons, selection of candidates based on winnability, failing to submit the Compliance Report on time etc. Officer in-charge of a political party pertaining to submission of a compliance report should also be held accountable for such a breach.***

IX. Strict and immediate action needs to be taken by the Election Commission of India: ECI should also not hesitate from using its wide powers given under Article 324 of the Constitution. Since the power of *superintendence, direction and control of elections* lies with the Election Commission, therefore ***without causing any delay, the Commission should immediately report such default to the Supreme Court during each election.*** In addition, ECI must ensure that the Supreme Court's directions are being truly implemented by political parties by taking concrete steps in the light of reasons given by political parties in Form C7 and C8, diligent publication of reasons in newspapers, T.V channels, party website etc and strict and constant reminders by ROs to the defaulters.

X. Officer bearers of a Political Party to file annual information on criminal antecedents: Political party should ***annually file the information on criminal antecedents of their Office Bearers*** such as President, Secretary, General Secretary, Chairperson, Convenor, Treasurer etc and make such records available to the public, ***including NIL records.***

XI. Prior announcement of candidates contesting elections: List of candidates contesting elections should be ***announced at least 3 months prior to elections*** and they should be required ***to submit affidavits stating specific reasons for changing/joining a particular party and approximate amount to be spent by them in the next elections and of the source thereof.*** All this information should be placed in the public domain.

XII. False affidavit should lead to immediate disqualification: Furnishing of false information in the affidavits by candidates should not be taken lightly by the ECI. ***It is after all, the first and foremost step in the direction of 'free and fair elections.'*** Section 125A of the RP Act, 1951 has not been able to deter candidates from furnishing wrong/incorrect information as it only leads to a six months imprisonment or fine or both, and therefore doesn't attract disqualification. ***There should be an immediate disqualification of candidates who furnish misinformation, no information false, information in the election affidavit.***

XIII. More power to NOTA: The Supreme Court judgment dated 23rd September, 2013 on provision of NOTA buttons on the EVMs needs to be implemented in its letter and spirit by ensuring a) ***if NOTA gets more votes than any of the candidates, none of the candidates should be declared elected, and a fresh election should be held;*** b) ***in the fresh election, none of the candidates in the earlier election, in which NOTA got the highest number of votes, should be allowed to contest.***

XIV. Fast tracking of cases for MLAs/MPs: All pending cases against MPs and MLAs should be fast tracked and brought to conclusion ***within a period of one year as mandated by the Supreme Court orders dated 10th March 2014 and 1st November 2017.*** This will also help in ensuring that the arbitrary

and unbridled power given under Section 321 of the Cr.P.C is not misused by the governments of the day by ordering withdrawal of cases pending against powerful politicians, ministers and other rich and powerful people.

XV. Declare Political parties as Public Authorities: It is the political parties that form the government, man the Parliament, and run the governance of the country. Where bringing political parties under the ambit of Right to Information Act, 2005 will usher transparency and accountability in the functioning of political parties and party leaders at one hand, on the other, it will also give a chance to the citizens to play their part in a democracy by acting as a watchdog. ***Bringing parties under RTI law will not only empower the citizens to question, audit, review, examine, and assess information like inner party elections, criteria for ticket distribution but it will also allow people to seek definite and direct answers from the office bearers for the kind of candidates being fielded by our political parties. Therefore, it is high time that the Supreme Court of India takes note of this current predicament and upholds and implements the 3rd June 2013 CIC order by bringing the parties under the ambit of RTI Act.***



XVI. A comprehensive law to regulate political parties' affairs: Political parties are the ultimate repository and guardian of our whole constitutional, democratic, social-economic set up, but ***we don't have a single comprehensive law entirely dealing with political parties. In absence of a comprehensive law, citizens cannot question, appraise and audit the functioning of political class and politicians.*** Therefore, there is a dire need for a comprehensive legislation ***regulating the functioning of political parties, recognition of their party constitution, election at various levels of party organs, conditions for registration and de-registration, compulsory maintenance of accounts, women representation at organisational positions,*** as recommended in the '170th Law Commission Report, Part III, Chapter I' and Chapter 8 of the NCRW report.

XVII. Introduce provisions for inner-party democracy within political parties: In spite of being one of the largest democracies in the world, our political parties which run this democracy are painfully undemocratic in their functioning. Political parties have miserably failed in their 'Code of conduct' and self-initiated reforms for themselves. Therefore, mandatory provisions should be made to ***introduce inner-party democracy, transparent decision-making, ticket distribution, elections of office bearers, financial transparency and stronger organisational discipline*** within the political parties. This should include ***mandatory secret ballot voting for all elections for all inner party posts and selection of candidates, as suggested by the 170th Law Commission Report.***

XVIII. Annual Report by MPs and MLAs: Elected MPs and MLAs should be required to submit an '***Annual Report***' to their constituency giving details of their accomplishments for previous year and the plan for the next year. This report should be made available at the Lok Sabha/Rajya Sabha/ State Assembly website and on the Election Commission's website.


XIX. First-past-the-post, “50%+1 of the registered votes cast”: As per the recommendations given by various committees, Law Commission and NCRWC, *‘no candidate should be declared elected unless he or she secures more than 50% of the votes cast’*. In the case when no candidate gets the required number of votes, *there should be a runoff between the top two candidates getting maximum votes*. It is worth noting that 50%+1 of the votes cast is an easier requirement for being declared elected, a more stringent requirement, and the ideal to ensure appropriate and proper representation.

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Myneta: The criminal, financial, educational & other background information self declared by candidates in their affidavits during elections is now available on your mobile phones.

Election Watch Reporter: This app provides a tool to the citizens to capture violations of election related laws & the code of conduct.

Both the applications are available on Google Play Store

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DISCLAIMER

Data used in this report has been exactly taken as it is from Format C7 posted by political parties on their official websites/social media handles. **ADR does not add or subtract any information, unless the political parties change the data. In particular, no unverified information from any other source is used.** While all efforts have been made to ensure that the information is in keeping with what is available on the political party websites, in case of discrepancy between information in this report and that given in the official websites of political parties, the information available on the political parties' websites should be treated as correct. Association for Democratic Reforms is not responsible or liable for any damage arising directly or indirectly from the publication of this report.

Date 11th April 2023

Press Release

Analysis of Format C7 - Publication of Reasons Given for Selection of Candidates with Criminal Cases by Political Parties

Gujarat, Himachal Pradesh Assembly Election 2022 and Tripura, Meghalaya and Nagaland Assembly Election 2023

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Content

S.No.	Description	Page Number
1	Introduction	3
2	EC's Directions in compliance with SC orders on Publication of Criminal Cases by Candidates and Political Parties including recording of reasons for selection	4
3	Summary and Highlights of the Report	7
4	Analysis of Format C7 – Gujarat Assembly Elections, 2022	8
5	Analysis of Format C7 – Himachal Pradesh Assembly Elections, 2022	12
6	Analysis of Format C7 -Tripura Assembly Elections, 2023	16
7	Analysis of Format C7 - Meghalaya Assembly Elections, 2023	19
8	Analysis of Format C7 - Nagaland Assembly Elections, 2023	23
9	Observations by ADR	26
10	Recommendations by ADR	29
11	Contact Information	37

Introduction

On 13th February 2020 the Supreme Court had directed political parties ***to list out reasons on their website including their social media platforms for nominating candidates with criminal background within 72 hours of the selection of such candidates.*** This direction of the Apex Court had come in the light of a contempt petition filed against the non-implementation of its earlier order dated **25th September, 2018** on publication of criminal cases by candidates and political parties which clearly were not taken very seriously. Consequently, the Supreme Court had reprimanded political parties for failing to widely publish the details of criminal cases pending against the candidates selected by them. Going one step further, the Supreme Court in its directions had also specifically instructed political parties ***to give reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates.*** As per these mandatory guidelines, the reasons for such selection have to be with reference to ***qualifications, achievements, and merit of the candidate*** concerned. Sadly, even these directions of the Supreme Court have had no effect on the political parties in selection of candidates as they have again followed their old practice of giving tickets to candidates based on ***'Muscle and Money power'***. On 15th July 2021 and 20 July 2021, the Supreme Court again considered the contempt by political parties against the wilful disobedience of the Apex Court's order dated 13th February 2020. While observing the egregious default by political parties, the Supreme Court also stated ***that neither the Legislature nor the Political Parties will ever be keen on taking steps to stop the entry of candidates charged with criminal cases.***

In order to curb this blatant practice of giving tickets to candidates with criminal background, the SC has, lately given four orders; **10th March, 2014 (Trial within one year); 1st November, 2017 (Special 11 fast-track courts); 25th September, 2018 (Publication of criminal cases); 13th February, 2020 (Reasons for giving tickets to candidates with criminal cases).** Unfortunately, none of these orders have been able to dissuade parties from giving tickets to candidates with criminal background rather than entry to ***clean, credible and honest candidates.***

¹ https://main.sci.gov.in/supremecourt/2020/24482/24482_2020_32_11_28409_Order_15-Jul-2021.pdf

² https://main.sci.gov.in/supremecourt/2020/24482/24482_2020_32_1_28730_Order_20-Jul-2021.pdf

³ https://adrindia.org/sites/default/files/Supreme_Court_10-03-2014_daily_order_in_PFI_vs_UOI_0.pdf

⁴ https://adrindia.org/sites/default/files/Order_dated_01_-_Nov_-_2017_Ashwini_Upadhaya_case.pdf

⁵ https://adrindia.org/sites/default/files/judgment_on_de-criminalization_25-Sep-2018.pdf

⁶ https://adrindia.org/sites/default/files/Supreme_Court_judgement_dated_13th_Feb_2020_in_Contempt_petition_No_2192_of_2018.pdf

EC's directions (in its letters dated 6th Mar'20 & 10th Oct'18) in compliance with SC orders dated 25th September 2018 and 13th February 2020 on Publication of Criminal Cases by Candidates and Political Parties including recording of reasons for selection

ECI's Letter dated 6th March 2020 in compliance with Supreme Court directions dated 13th February 2020 stated:

- 1) It is mandatory for **political parties** at the Central and State election level to upload on their **website detailed information regarding candidates with pending criminal cases including the nature of offences, relevant particulars like whether charges have been framed, the concerned court, the case number etc.**
- 2) **Political parties** will also have to give reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates.
- 3) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and **not mere “winnability”** at the polls.
- 4) This information shall also be published in: (a) One local vernacular newspaper and one national newspaper; (b) On the official social media platforms of the political party, including Facebook and Twitter.
- 5) These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations whichever is earlier. For ensuring periodic awareness of electors during the campaign, ECI has now prescribed following timeline for publicity of criminal antecedents during the period starting from the day following the last date of withdrawal and up to 48 hours before ending with the hour fixed for conclusion of poll,
 - Within first 4 days of withdrawal of nominations,
 - Between next 5th - 8th days.
 - From 9th day till the last day of campaign (the second day prior to date of poll) the day

6) The **political party** concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.

7) If a **political party fails to submit such a compliance report** with the Election Commission, the Election Commission shall bring such non-compliance by the political party concerned to the notice of the Supreme court as being in contempt of this court's orders/directions

ECI's Letter dated 10th October 2018 in compliance with Supreme Court directions dated 25th September 2018:

For Candidates:

1. Each contesting candidate shall fill up the form as provided by the Election Commission and the form ***must contain all the particulars as required*** therein.
2. It shall state, ***in bold letters, with regard to the criminal cases pending against the candidate.***
3. If a candidate is contesting an election on the ticket of a particular party, ***he/she is required to inform the party about the criminal cases pending against him/her.***

For Political Parties:

1. The concerned political party shall be ***obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.***

Both Political Party and Candidates:

1. It is mandatory for **political parties** and **candidates** with criminal antecedents to publish the declaration ***atleast on three different dates from the date following the last date of withdrawal of candidatures and up to two days before the date of poll.*** The matter should be published in font size of at least 12 and should be placed suitably in newspapers. In case of ***declaration in TV Channels, the same should be completed before a period of 48 hours ending with hours fixed for conclusion of poll.*** There is a format provided by ECI for such a declaration by the candidates and political parties.

2. In case of non-compliance of the direction by the ***candidate/political parties, the returning officers will give a written reminder*** to them and in the event of non-compliance till the end of the elections, ***the returning officer will report to the state's Chief Electoral Officer who will intimate ECI. ECI will take a final decision in the matter.*** The standard format for such a reminder to the candidates and political parties is also annexed in the letter.
3. ***All political parties; recognized parties and registered unrecognized parties shall submit a report to the CEO of the concerned state stating that they have fulfilled the requirements of the directions and enclosing herewith the paper cuttings containing the directions.*** This shall be done within 30 days of the completion of elections. Thereafter, within the next 15 days, the CEO should submit a report to the ECI confirming compliance and pointing out cases of defaulters.

Format/Forms issued by ECI in pursuant to the aforementioned SC directions

It is to be noted that **Form C7 and C8** should be ***duly signed by the office bearer of a political party with proper name and designation.*** Form C8 shall also bear ***seal of the concerned political party.***

Format/Form	Action to be taken by	Platform
C1	Candidates	To publish information regarding criminal background in Newspapers and TV
C2	Political Parties	To publish information regarding criminal background in Newspapers, TV and Political party's website
C7	Political Parties	To publish information regarding criminal background <i>along with reasons</i> in Newspapers, social media platforms, website of political parties
C8	Political Parties to the Election Commission of India	Compliance Report with respect to the SC judgment dated 13th Feb, 2020

Summary and Highlights

Association for Democratic Reforms (ADR) has analysed **Format C7** of **307** candidates, who contested in the **Gujarat, Himachal Pradesh assembly election 2022** and **Tripura, Meghalaya and Nagaland assembly election 2023**:

This data has been compiled from political parties' websites as well as social media handles that were functional before and during the period of the above-mentioned State assembly elections. Most political parties published details as per form C7 on their social media handles such as Twitter. It must be noted that in some cases, parties may have published these details (elsewhere) and it may not have appeared in our records.

S.No	State	Total Contesting Candidates	Number of Political Parties Analysed	Contesting Candidates Analysed from Shortlisted Political Parties	Number of Candidates Analysed with Declared Criminal Cases	No. of Candidates with Criminal Cases having a Published Format C7
1	Gujarat	1621	8	687	166	141
2	Himachal Pradesh	412	8	303	77	31
3	Tripura	259	5	181	38	14
4	Meghalaya	375	8	305	20	14
5	Nagaland	184	5	106	6	4
Total		2851	34*	1582	307	204

34*

No. of Political Parties Analysed Across the 5 States

204

No. of Candidates with Criminal Cases having a Published Format C7 (66%)

103

No. of Candidates with Criminal Cases whose Format C7 is not Published (34%)

**Some political parties are common in all the states*

Analysis of Format C7 – Gujarat Assembly Elections, 2022

Political parties analysed:

Out of all the National and State political parties which contested in the **Gujarat 2022** Assembly Elections, the following **8** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Bahujan Samaj Party
3. Indian National Congress
4. Communist Party of India (Marxist)
5. Jan Sewa Driver Party
6. Aam Aadmi Party
7. All India Majlis-e-Ittehadul Muslimeen
8. Jan Sangharsh Virat Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **687** contesting candidates analysed, **166 (24%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **687** contesting candidates analysed belonging to the aforementioned political parties, **100 (15%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **166** candidates with criminal cases, reasons have been furnished for **141 (85%)** candidates.
 - Out of **100** candidates with serious criminal cases, reasons have been furnished for **89 (89%)** candidates.
 - For **25 (15%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

• **Reasons given for top 3 candidates** with highest number of total criminal cases:

S.No.	Name of Candidate	Constituency	Political Party	No. of cases	Serious IPC Counts	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
1	Hardik Bharatbhai Patel	VIRAMGAM	BJP	22	16	He is well known publicly accepted leader and has been in responsible position attached to social service.	As mentioned above in comparison to other individuals without criminal antecedents this candidate is quite accepted amongst the general mass and is also considered to be popular amongst the youth.
2	Gopalbhai Gordhanbhai Italia	KATARGAM	AAP	19	7	That in spite of under prosecution the candidate is a man of fight for social causes and qualities. He is well educated (B.A.L.L.B) to this he has a good reputation in society of Surat especially in Patidar Samaj. He helps poor and needy people of the society and struggle for them. He is liked by all the people of his area. The case filed with malafide intentions during andolan-protest by the companies against whom the police has filed this case. The hazardous waste disposal facilities have adverse impacts over the local people's health and ecology. Thus during struggle this case was filed. There was negligible damage to police vehicle only on glass was broken thus they didn't involve in this damage to public property at all.	His work for the society made him the appropriate candidate for the party against other candidate
3	Alpesh Kathiriya	VARACHHA ROAD	AAP	13	10	That in spite of under prosecution the candidate is a man of fight for social causes and qualities. He is well educated (LL.B) to this he has a good reputation in society of Surat especially in Patidar Samaj. He helps poor and needy people of the society and struggle for them. He is liked by all the people of his area. The case filed with malafide intentions during andolan-protest by the companies against whom the police has filed this case. The hazardous waste disposal facilities have adverse impacts over the local people's health and ecology. Thus during struggle this case was filed. There was negligible damage to police vehicle only one glass was broken thus they didn't involve in this damage to public property at all.	He is the most deserving and the accomplished candidate.

Table: Reasons given for top 3 candidates with highest number of total criminal cases

- Top commonly stated reasons by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
He is well known publicly accepted leader and has been in responsible position attached to social service	No other candidate was found of similar stature.
That in spite of under prosecution the candidate is a man of fight for social causes & qualities. He is well educated	No such prospect found to replace him.
The selected candidate is a very senior and dedicated party worker	This candidate is a sitting MLA and is well accepted in his constituency by the people
The charge has not even been framed till today	All the cases are registered for public issue since he is working for the public
He has a good reputation in society	As a senior party worker he had an edge over other individuals considering the fact that whatever charges are alleged in the charge sheet have no substance and are purely with a vindictive approach and personal vendetta being waged by his political enemies. Therefore, he is selected as candidate

Table: Top 5 commonly stated reasons by political parties for selection of candidates with criminal background

- Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
BJP	32	4	13%
INC	60	2	3%
BSP	2	2	100%
AAP	61	13	21%
AIMIM	4	4	100%
Jan Sangharsh Virat Party	1	0	0%
Jan Sewa Driver Party	4	0	0%
CPI(M)	2	0	0%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

• **Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Rajeshbhai Mangubhai Patel	3	AAP
Govindbhai Rajibhai Parmar	3	BJP
Rathwa Radhikaben Amarsinghbhai	2	AAP

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

• **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks
BJP	Around 70% the candidates with cases against them have given the same word to word reasons for the selection of the candidate. Selection shall be with reference to the qualifications, achievements and merit of the candidate, and not mere “winnability” at the polls Refer Party Website Link Given Here : https://bjpgujarat.org/form-c7-for-assembly-candidates/
INC	Around 80 % the candidates with cases against them have given the same word to word reason in the both sections for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates Refer Party Website Link Given Here : https://www.incgujarat.com/format-c-7/
AAP	The Form C7 was uploaded on their party website but there is no signature of the office bearer. Refer Party Website Link Given Here : https://aamaadmiparty.org/candidates-with-criminal-antecedents-in-Gujarat-c7-details/

Financial Background

• **Crorepati Candidates:** Out of the 166 candidates, 97 (58%) are crorepatis.

• **High Assets Declared:** Highest declared total assets of **top 3 candidates**, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	Cases Total	Serious IPC Counts	Total Assets Declared (Rs.)
1	Indranil Rajguru	Rajkot east	INC	1	0	1,62,92,89,224 162 Crore+
2	Jawaharbhai Pethalajibhai Chavda	Manavadar	BJP	2	2	1,30,15,80,411 130 Crore+
3	Bhachubhai Dharamshi Aarethiya	Rapar	INC	2	3	97,48,74,784 97 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Himachal Pradesh Assembly Elections, 2022

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Himachal Pradesh 2022** Assembly Elections, the following **8** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Bahujan Samaj Party
3. Aam Aadmi Party
4. Communist Party of India (Marxist)
5. Indian National Congress
6. Bhartiya Veer Dal
7. Himachal Jan Kranti Party
8. Rashtriya Devbhumi Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **303** contesting candidates analysed, **77 (25%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **303** contesting candidates analysed belonging to the aforementioned political parties, **38 (13%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **77** candidates with criminal cases, reasons have been furnished for **31 (40%)** candidates
 - Out of **38** candidates with serious criminal cases, reasons have been furnished for **17 (45%)** candidates
 - For **46 (60%)** candidates with criminal background, no reasons for their selection have been provided by political parties

- **Reasons given for top 3 candidates** with highest number of total criminal cases:

S.No.	Name of Candidate	Constituency	Political Party	No. of cases	Serious IPC Counts	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
1	Rakesh Singha	Theog	CPI(M)	30	6	Format C7 available in the party website but not readable	
2	Kuldip Singh Tanwar	Kasumpti	CPI(M)	20	2	Format C7 available in the party website but not readable	
3	Manish Kumar Thakur	Paonta Sahib	AAP	19	0	Cases against more in numbers and party after going through the FIR's of each case found that the cases registered mostly during the agitations led by him & he has been fighting for the rights of the people.	His grit and determination to fight for the rights of the people made him the choice of the candidate of AAP over other candidate.

Table: Reasons given for top 3 candidates with highest number of total criminal cases

- **Top commonly stated reasons given by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Meritorious Candidate	Since the Candidate is Meritorious Socially Active
Criminal case which seems to be a politically motivated he is a working for the downtrodden and poor people.	He has been the most deserving and accomplished candidate
Well known social worker	He is the most deserving and the accomplished candidate.
In comparison to the other candidates and their history, it was found to be suitable being the candidate has stated that false FIR has been lodged against him	The offences are not grave one, seem to be based on political vendetta. His Image supported by the local office bearers of the party as clean and good

Table: Top commonly stated reasons given by political parties for selection of candidates with criminal background

- Political parties that did not publish reasons for selection of candidates with criminal background*:**

Party Candidate	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
INC	36	36	100%
AAP	12	0	0%
BJP	12	1	8%
BSP	2	1	50%
CPI(M)	7	0	0%
Bhartiya Veer Dal	1	1	100%
Himachal Jan Kranti Party	1	1	100%
Rashtriya Devbhumi Party	6	6	100%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

- Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Vikramaditya Singh	11	INC
Kuldeep Singh Rathore	8	INC
Uttam Chand	5	Bhartiya Veer Dal

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

- **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks
BJP	All the candidates with cases against them have given the same word to word reason for the selection of the candidate. Refer Party Website Link Given Here: https://www.bjp.org/files/election-documents/candidates_format_C7_page_11.pdf
CPI(M)	Format C7 available in the party website but not readable Refer Party Website Link Given Here: https://cpim.org/page/elections-2022

Financial Background

- **Crorepati Candidates:** Out of the **77** candidates, **58 (75%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of top 3 candidates, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	Cases Total	Serious IPC Counts	Total Assets Declared (Rs.)
1	Vikramaditya Singh	Shimla Rural	INC	11	1	1,01,39,61,033 101 Crore+
2	R.S. Bali	Nagrota	INC	3	0	92,36,27,042 92 Crore+
3	Ram Kumar	Doon	INC	1	6	73,76,21,068 73 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Tripura Assembly Elections, 2023

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Tripura 2023** Assembly Elections, the following **5** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Indian National Congress
3. All India Trinamool Congress
4. Communist Party of India (Marxist)
5. Tipra Motha Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **181** contesting candidates analysed, **38 (21%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **181** contesting candidates analysed belonging to the aforementioned political parties, **18 (10%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **38** candidates with criminal cases, reasons have been furnished for **14 (37%)** candidates
 - Out of **18** candidates with serious criminal cases, reasons have been furnished for **7 (39%)** candidates
 - For **24 (63%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

• **Reasons given for top 3 candidates with highest number of total criminal cases:**

Name of Candidate	No. of cases	Serious IPC Counts	Political Party	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Pabitra Kar	8	0	CPI(M)	Format C7 not published by political party on official website and Social media handles	
Dipankar Sen	4	0	CPI(M)	Format C7 not published by political party on official website and Social media handles	
Krishnendu Choudhury	4	0	CPI(M)	Format C7 not published by political party on official website and Social media handles	

Table: Reasons given for top 3 candidates with highest number of total criminal cases

• **Top commonly stated reasons given by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Very well known for his active social work in his area.	The offences against the candidate are not grave and based on political vendetta.
Respectable and eminent personality	Others lack popularity among the public.
Well-known social worker	Has been a loyal member of the party.
Very popular amongst the local population	Has a good understanding of the area.

Table: Top commonly stated reasons given by political parties for selection of candidates with criminal background

• **Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
INC	7	7	100%
BJP	9	0	0%
AITC	5	0	0%
CPI(M)	13	13	100%
Tipra Motha Party	4	4	100%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

- **Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Pabitra Kar	8	CPI(M)
Dipankar Sen	4	CPI(M)
Krishnendu Choudhury	4	CPI(M)

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

- **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks (Refer annexure 1)
AITC	All the candidates with cases against them have given the same word to word in the both sections reasons for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates (Refer annexure 1)

Financial Background

- **Crorepatri Candidates:** Out of the **38** candidates, **9(24%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of top 3 candidates, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	Cases Total	Serious IPC Counts	Total Assets Declared (Rs.)
1	Sudip Roy Barman	AGARTALA	INC	3	6	9,07,91,072 9 Crore+
2	Satyaban Das	PABIACHARA (SC)	INC	2	2	4,57,92,214 4 Crore+
3	Birajit Sinha	KAILASHAHAR	INC	3	0	2,94,48,721 2 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Meghalaya Assembly Elections, 2023

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Meghalaya 2023** Assembly Elections, the following **8** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Indian National Congress
3. All India Trinamool Congress
4. National People's Party
5. Garo National Council
6. Republican Party of India (A)
7. Voice of the People Party
8. United Democratic Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **305** contesting candidates analysed, **20 (7%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **305** contesting candidates analysed belonging to the aforementioned political parties, **16 (5%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **20** candidates with criminal cases, reasons have been furnished for **14 (70%)** candidates
 - Out of **16** candidates with serious criminal cases, reasons have been furnished for **11 (69%)** candidates
 - For **6 (30%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

- Reasons given for top 3 candidates with highest number of total criminal cases:**

Name of Candidate	No. of cases	Serious IPC Counts	Political Party	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Bernard N. Marak	14	22	BJP	He is a person who has been engage in social service for the people of the constituency for the past many years. He was found to have good understanding of the ground situation and share a good rapport with the voters here.	The BJP firmly believes in fielding candidate who can best represent the aspirations of the people of the constituency. Thus, he has been chosen over the others.
Champion R. Sangma	12	22	INC	Shri Champion R Sangma has work relentlessly for the upliftment and development of people from his area and he is well respected.	Shri Champion R Sangma has work relentlessly for the upliftment and development of people from his area and he is well respected.
Vincent T Sangma	4	7	AITC	Shri. Vincent T. Sangma is a very sincere and dedicated party worker having deep roots in 25-Mawsynram (ST) Assembly	Shri. Vincent T. Sangma is a very sincere and dedicated party worker having deep roots in 25-Mawsynram (ST) Assembly

Table: Reasons given for top 3 candidates with highest number of total criminal cases

- Top commonly stated reasons given by political parties for selection of candidates with criminal background:**

Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Social worker for many years	The party selects those candidates whose name has been unanimously decided upon by party workers.
Work relentlessly for the upliftment and development of people from their area and they are well respected.	No one was better than them.
Case against them is politically motivated, political rivalry, vendetta etc.	Others lack popularity among public.

Table: Top commonly stated reasons given by political parties for selection of candidates with criminal background

- Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
AITC	3	0	0%
BJP	1	0	0%
Garo National Council	1	1	100%
INC	6	2	33%
NPP	6	0	0%
Republican Party of India (A)	1	1	100%
UDP	1	1	100%
Voice of the People Party	1	1	100%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

- Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

Name of Candidate	No. of cases	Political Party
Nikman Ch. Marak	4	Garo National Council
Ashahel D. Shira	2	UDP
Panseng R. Marak	1	Republican Party of India (A)

Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published

- **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks (Refer annexure 2)
INC	All the candidates with cases against them have given the same word to word reasons in the both sections for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates
AITC	All the candidates with cases against them have given the same word to word reasons in the both sections for selection of candidate with criminal background and reason as to why other individual without criminal antecedents could not be selected as candidates

Financial Background

- **Crorepatis Candidates:** Out of the **20** candidates, **13 (65%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of **top 3 candidates**, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Constituency	Political Party	No. of Cases	Serious IPC Counts	Total Assets Declared (Rs.)
1	Ashahel D. Shira	Rajabala	UDP	2	4	85,09,18,578 85 Crore+
2	Deborah C. Marak	William Nagar (St)	INC	1	2	20,02,66,991 20 Crore+
3	Richard Singh Lyngdoh	Raliang (St)	INC	1	1	15,25,59,369 15 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Analysis of Format C7 – Nagaland Assembly Elections, 2023

Political parties analysed:

Out of all the National, State and Registered unrecognized political parties which contested in the **Nagaland 2023** Assembly Elections, the following **5** political parties have been analysed for this report.

1. Bharatiya Janata Party
2. Indian National Congress
3. Naga People's Front
4. Rising People's Party
5. Nationalist Democratic Progressive Party

Criminal Background

- **Candidates with Criminal Cases:** Out of **106** contesting candidates analysed, **6 (6%)** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **106** contesting candidates analysed belonging to the aforementioned political parties, **3 (3%)** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
 - Out of **6** candidates with criminal cases, reasons have been furnished for **4 (67%)** candidates
 - Out of **3** candidates with serious criminal cases, reasons have been furnished for only **1 (33%)** candidate
 - For **2 (33%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

• **Reasons given for top 3 candidates with highest number of total criminal cases:**

Name of Candidate	No. of cases	Serious IPC Counts	Political Party	Reasons for selection of candidate with criminal background	Reasons as to why other individuals without criminal antecedents could not be selected
Vikato Aye	1	5	NPF	Format C7 not published by political party on official website and Social media handles	
A. Pangjung Jamir	1	1	BJP	Candidate was serving as a Govt. Officer in the land resource department of Government of Nagaland when due professional rivalry he was falsely targeted and a roped in a false case through a supplementary charge sheet. Order of Cognizance against him has stayed by the Hon'ble Kohima bench of the Hon'ble High Court of Guwahati vide order dated 06.08.2018 WP (CRL.) 4(K) of 2018. He continued to serve his employment and gracefully retired on 21.01.2023. The candidate is a respectable member of the society and was selected after the internal survey of the party's workers.	He is an educated person who is committed to serve his community and was selected after an internal survey with the party grass-root workers. The view of grass-root worker of the party is that the he will be acquitted even if case against is taken to trial. He is a knowledgeable person with a good supervisory and administrative skills therefore he will be able to use the system efficiently to the benefit of his assembly. Due to these reasons he is a better suited candidate.
Neiba Kronu	1	1	NDPP	Format C7 not published by political party on official website and Social media handles	

Table: Reasons given for top 3 candidates with highest number of total criminal cases

• **Political parties that did not publish reasons for selection of candidates with criminal background*:**

Political Party	Total no. of contesting candidates with criminal background	No. of Candidates without Format C7	Percentage of candidates without Format C7
BJP	1	0	0%
INC	1	0	0%
NDPP	2	1	50%
NPF	1	1	100%
Rising People's Party	1	0	0%

Table: Political parties that did not publish Format C7 for candidates with criminal background

*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

Financial Background

- **Crorepati Candidates:** Out of the **6** candidates, **3 (50%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of top 3 candidates, along with details of their criminal backgrounds:

S.No.	Name of the Candidate	Political Party	No. of Cases	Serious IPC Counts	Total Assets Declared (Rs.)
1	Neiba Kronu	NDPP	1	1	14,05,00,856 14 Crore+
2	G Ikuto Zhimomi	NDPP	1	0	11,15,01,829 11 Crore+
3	A. Pangjung Jamir	BJP	1	1	4,13,57,965 4 Crore+

Table: Top 3 candidates with criminal background having highest declared assets

Observations by ADR

I. General:

Functioning of our political parties can only be regulated by adopting stringent measures which are enforced by concerned agencies like the ECI and the law and order machinery. Mere warnings issued to political parties will not help the cause. In 2015, the Supreme Court had left it to the wisdom of the Prime Minister and Chief Ministers of the states to not appoint ministers in their cabinet with criminal backgrounds. However, since 2015, the crime rate in the legislative offices has only escalated further. On 30th August, 2020 the Madras High Court had not only asked the Central Government to ***“enact a law to prohibit candidates with criminal background contesting the elections to the Parliament as well as State legislatures”*** but had also emphasized that ***“the Central Government has to come out with a comprehensive legislation to prohibit persons with criminal background from contesting elections to Parliament, State Legislatures and local bodies”***.

The stipulation that more people who are ***honest, fair, credible, capable and men of character and integrity***, should contest elections and be the key policy makers, holds no ground in the Indian Political System. Over the years, political establishments have completely disregarded or intentionally side-lined the reforms suggested by various committees, citizens and civil societies. It is on record that various recommendations given by several committees dating as far back as 1999, are lying un actioned.

In the Format C7, under the column where ***“Reasons as to why other individuals without criminal antecedents could not be selected”***, it is noticed that in most cases, instead of giving cogent answers to the question, justification is given as to why the candidate in question has been selected.

How casually political parties take the SC and ECI directions is evident from the list of C7 format available on the websites of BJP, CPI(M), INC, AAP, AITC and others for the 2022 and 2023 assembly elections. While giving reasons for fielding candidates with criminal cases, the exact same reasons have been replicated for all candidates. Refer to Annexure 1 and 2 of this report.

II. Blatant contempt of the Supreme Court directions:

ADR's analysis of publication of criminal antecedents by political parties reveals major shortcomings in the implementation of the SC judgement. Several political parties, regardless of their current political outreach and popularity, **did not have a functional website** to publish details of candidates with criminal background along with reasons, or they were not uploaded on the websites and on social media platforms which made it difficult to access these forms. There were yet others that had a separate section dedicated for election information, but they either **failed to upload necessary documents or had dysfunctional website tabs**. Notably, even among the few political parties that published Format C7's within the stipulated time period, there were some grave problems which emerged upon analysis of the information provided through these affidavits. These included a) **justifying fielding of tainted candidates with unfounded and baseless reasons like chances of winning, popularity of the person, does good social work, offences not being grave in nature, cases are politically motivated**, b) **repetition of reasons** outlined through forms, not just for candidates within a single political party, but also for those contesting on behalf of other parties; and c) **publication of Format C2 (information with particulars on criminal cases pending against candidates) but not Format C7 (information regarding pending criminal cases along with reasons)**.

Other discrepancies include **omission of crucial information** on affidavits, such as name of candidate and reason for selection (which is the primary purpose of Format C7), as well as **submission of data in incorrect (letter) format**. This is especially of concern in light of the total number of pending cases against the candidates in question, and their categorisation under 'serious criminal cases'. **It is also important to note that for all the State Assembly elections, reasons for inclusion of independent candidates with criminal background has not been provided on any public platform.**

III. Strong muscle and money nexus cannot be reprimanded by mere pious hopes:

Criminal elements have been playing a major role in the electoral process in India both as candidates for elections and as party workers. The nexus between politicians, bureaucrats, and criminal elements in our society has been on the rise, the adverse effects of which are increasingly being felt on various aspects of social life in India. **Such a strong criminal political bureaucratic nexus in our electoral and political process has to be confronted with resolve and determination by ECI and law enforcement agencies.**

The present law i.e. section 8 of the Representation of People's Act, 1951 and the repeated orders issued by courts have not been able to deter politicians with criminal backgrounds from occupying high offices as MPs, MLAs and Ministers. Conviction rate under our judicial system has been falling over the years. More importantly, the time taken for trials is unduly long. In addition, politicians do not even diligently or properly furnish each

and every information as required under Form 26 or without constant reminders and warnings by the Election Commission of India. The result is that the law breakers have become law makers.

IV. Absence of Law, Rules, and Regulations:

There is no well-defined process in the selection of candidates by the political parties. There is no law for regulating the functioning of political parties. There is no way to penalise the office bearers of the political parties in case of any conflict or contravention with rules or laws. Political parties have blatantly refused to come under RTI law. Tickets are given to the candidates for contesting elections on the sole basis of winnability factor. Historically, it has been observed that muscle power and money power make a winning combination. Candidates with criminal background quietly make their foray into the Lok Sabha and State Assembly elections as political parties do not hesitate in giving tickets to such candidates.

V. How and when will the contempt action be taken?

In view of the Supreme Court's orders dated 25th September, 2018 and 13th February, 2020 and as per the ECI's letter dated 6th March, ***"if a political party fails to submit such compliances report with the Election Commission, the Election commission shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as being in contempt of this Court's orders/directions"***. However, there is no information available about any such contempt action having been taken against these political parties. In reality, citizens are not sure whether the ECI has reported to the Supreme Court the non-compliance of its directions by some political parties in the recently held elections. It is also not clear if the ECI even keeps a tab over the submission and maintenance of these forms.

Recommendations by ADR

There is no dearth of solutions to curb the ever-growing problem of criminality in politics. ***What is required is the courage and will to do the same. Lawmakers will not frame laws that ban the unimpeded and unchecked entry of politicians with criminal cases. Constitutional bodies and institutions will continue to take refuge under reasons like 'lack of power'.*** In fact, on 20th July, 2021 while hearing the contempt petition against publication of reasons for selection of candidates with criminal cases by political parties, the Bench headed by Justice R.F Nariman and Justice B.R Gavai had added, ***"We are certain that the legislative branch will not take this forward, not only in the foreseeable future, but at any time in the future"*** Given the current situation, where all political parties stand united and determined to stall any attempts to bring accountability, transparency, and fairness in our electoral process, it becomes imperative to remind the key duty holders of their role duties in preserving, protecting, and defending the Constitution. The only way to remedy the existing problem of criminalization is to immediately act upon the plausible solutions offered by the judiciary, various committees, civil society, and citizens.

Until and unless these trends are not reined in, our current electoral and political situation is bound to deteriorate further. It is after all the electorate, who has to suffer on account of criminalization and often can do little but helplessly participate in the election of the mighty and moneyed criminal elements. ADR, therefore, proposes following recommendations that need to be acted upon immediately ***without further delay and damage to our Participatory democracy and Rule of Law.***

I. Criteria for selection of candidates: There should be a strict criterion for selection of candidates by political parties. As per the ***Supreme Court judgment*** dated ***13th February 2020***, political parties are already required to give ***reasons for selection*** of candidates and ***why other individuals without criminal antecedents could not be selected as candidates.*** As per the judgment the reasons as to selection shall be with reference to the ***qualifications, achievements and merit of the candidate concerned***, and not mere ***"winnability"*** at the polls.

II. Disqualification on charges framed: Problem of criminalization can be tackled if such tainted candidates are outrightly banned from entering the electoral process based on both stage and degree of crime. This can be achieved by ***disqualifying candidates from contesting elections to the public offices against whom 'charges have been framed by court' for having committed serious criminal offences punishable by imprisonment of at least 5 years, and the case is filed at least 6 months prior to the election in question.***

III. **Permanent disqualification for heinous offences:** It is reprehensible to have a Lawmakers charged/convicted of heinous crimes making laws for citizens and policies for the nation. ***There should be a permanent disqualification of candidates convicted for heinous crimes like murder, rape, smuggling, dacoity, kidnapping, robbery etc.***

IV. **List of political parties to be prepared and shared by ECI:** Election Commission of India is expected to implement the 25th September, 2018 and 13th February, 2020 SC orders in its letter and spirit by listing out names of such tainted candidates selected by the political parties along with such reasons for such selection. ***This list needs to be religiously prepared and submitted to the Supreme Court after every election and the same should be uploaded on ECI's website for public inspection.***

V. **Contempt action against its orders by Supreme Court:** The Supreme Court of India being the ultimate custodian of "Justice and Rule of Law" should take note of the current situation and ***reprimand political parties and politicians for such contempt, complete lack of will, reprehensible predilection and absence of required laws.*** In addition, the Supreme Court should also ***immediately take a strict contempt action against political parties, their office bearers and candidates for blatantly bypassing its 25th September 2018 and 13th February 2020 orders.***

VI. **Cancellation of Tax Exemption given to the political parties:** Tax exemption given to the political parties under Section 13A of the Income Tax Act, 1961 and Section 29 C (4) of the Representation of People Act, 1951 ***should be cancelled for those parties who have deliberately side-lined the SC orders by giving tickets to undeserving, dishonest, corrupt, moneyed and tainted candidates.***

VII. **De-recognition of political parties:** Failure to abide by the Supreme Court directions dated 25th September 2018 and 13th February 2020 should be treated as a serious breach under Paragraph 16A of the Election Symbols (Reservation and Allotment) Order, 1968. Paragraph 16A gives power to the Commission to suspend or withdraw recognition of a recognised political party for its failure to observe Model Code of Conduct or follow lawful directions and instructions of the Commission. Therefore, ***the Election Commission of India should invoke its powers under Paragraph 16A read with Article 324 of the Constitution and suspend or withdraw recognition of a recognized political party for its incessant failure and disobedience of the SC directions.***

VIII. **Parties must face consequences for breach:** Political Parties must realize that the aforementioned SC directions are mandatory and therefore the compliance is not optional. Parties should be held accountable for brazenly defying the Supreme Court's order dated 25th September, 2018 and 13th February 2020. ***There should be a heavy financial penalty levied on them for making insufficient disclosures, invalid and common reasons, selection of candidates based on winnability, failing to submit the Compliance Report on time etc. Officer in-charge of a political party pertaining to submission of a compliance report should also be held accountable for such a breach.***

IX. Strict and immediate action needs to be taken by the Election Commission of India: ECI should also not hesitate from using its wide powers given under Article 324 of the Constitution. Since the power of *superintendence, direction and control of elections* lies with the Election Commission, therefore ***without causing any delay, the Commission should immediately report such default to the Supreme Court during each election.*** In addition, ECI must ensure that the Supreme Court's directions are being truly implemented by political parties by taking concrete steps in the light of reasons given by political parties in Form C7 and C8, diligent publication of reasons in newspapers, T.V channels, party website etc and strict and constant reminders by ROs to the defaulters.

X. Officer bearers of a Political Party to file annual information on criminal antecedents: Political party should ***annually file the information on criminal antecedents of their Office Bearers*** such as President, Secretary, General Secretary, Chairperson, Convenor, Treasurer etc and make such records available to the public, ***including NIL records.***

XI. Prior announcement of candidates contesting elections: List of candidates contesting elections should be ***announced at least 3 months prior to elections*** and they should be required ***to submit affidavits stating specific reasons for changing/joining a particular party and approximate amount to be spent by them in the next elections and of the source thereof.*** All this information should be placed in the public domain.

XII. False affidavit should lead to immediate disqualification: Furnishing of false information in the affidavits by candidates should not be taken lightly by the ECI. ***It is after all, the first and foremost step in the direction of 'free and fair elections.'*** Section 125A of the RP Act, 1951 has not been able to deter candidates from furnishing wrong/incorrect information as it only leads to a six months imprisonment or fine or both, and therefore doesn't attract disqualification. ***There should be an immediate disqualification of candidates who furnish misinformation, no information false, information in the election affidavit.***

XIII. More power to NOTA: The Supreme Court judgment dated 23rd September, 2013 on provision of NOTA buttons on the EVMs needs to be implemented in its letter and spirit by ensuring a) ***if NOTA gets more votes than any of the candidates, none of the candidates should be declared elected, and a fresh election should be held;*** b) ***in the fresh election, none of the candidates in the earlier election, in which NOTA got the highest number of votes, should be allowed to contest.***

XIV. Fast tracking of cases for MLAs/MPs: All pending cases against MPs and MLAs should be fast tracked and brought to conclusion ***within a period of one year as mandated by the Supreme Court orders dated 10th March 2014 and 1st November 2017.*** This will also help in ensuring that the arbitrary

and unbridled power given under Section 321 of the Cr.P.C is not misused by the governments of the day by ordering withdrawal of cases pending against powerful politicians, ministers and other rich and powerful people.

XV. Declare Political parties as Public Authorities: It is the political parties that form the government, man the Parliament, and run the governance of the country. Where bringing political parties under the ambit of Right to Information Act, 2005 will usher transparency and accountability in the functioning of political parties and party leaders at one hand, on the other, it will also give a chance to the citizens to play their part in a democracy by acting as a watchdog. ***Bringing parties under RTI law will not only empower the citizens to question, audit, review, examine, and assess information like inner party elections, criteria for ticket distribution but it will also allow people to seek definite and direct answers from the office bearers for the kind of candidates being fielded by our political parties. Therefore, it is high time that the Supreme Court of India takes note of this current predicament and upholds and implements the 3rd June 2013 CIC order by bringing the parties under the ambit of RTI Act.***



XVI. A comprehensive law to regulate political parties' affairs: Political parties are the ultimate repository and guardian of our whole constitutional, democratic, social-economic set up, but ***we don't have a single comprehensive law entirely dealing with political parties. In absence of a comprehensive law, citizens cannot question, appraise and audit the functioning of political class and politicians.*** Therefore, there is a dire need for a comprehensive legislation ***regulating the functioning of political parties, recognition of their party constitution, election at various levels of party organs, conditions for registration and de-registration, compulsory maintenance of accounts, women representation at organisational positions,*** as recommended in the '170th Law Commission Report, Part III, Chapter I' and Chapter 8 of the NCRW report.

XVII. Introduce provisions for inner-party democracy within political parties: In spite of being one of the largest democracies in the world, our political parties which run this democracy are painfully undemocratic in their functioning. Political parties have miserably failed in their 'Code of conduct' and self-initiated reforms for themselves. Therefore, mandatory provisions should be made to ***introduce inner-party democracy, transparent decision-making, ticket distribution, elections of office bearers, financial transparency and stronger organisational discipline*** within the political parties. This should include ***mandatory secret ballot voting for all elections for all inner party posts and selection of candidates, as suggested by the 170th Law Commission Report.***

XVIII. Annual Report by MPs and MLAs: Elected MPs and MLAs should be required to submit an '***Annual Report***' to their constituency giving details of their accomplishments for previous year and the plan for the next year. This report should be made available at the Lok Sabha/Rajya Sabha/ State Assembly website and on the Election Commission's website.


XIX. First-past-the-post, “50%+1 of the registered votes cast”: As per the recommendations given by various committees, Law Commission and NCRWC, *‘no candidate should be declared elected unless he or she secures more than 50% of the votes cast’*. In the case when no candidate gets the required number of votes, *there should be a runoff between the top two candidates getting maximum votes*. It is worth noting that 50%+1 of the votes cast is an easier requirement for being declared elected, a more stringent requirement, and the ideal to ensure appropriate and proper representation.

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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

Contempt Petition (Civil) No of 2023
(Diary No 36053/2022)

Association for Democratic Reforms

... Petitioner

Versus

JP Nadda & Ors

... Respondents

O R D E R

- 1 We are not inclined to entertain the Contempt Petition.
- 2 The Contempt Petition is accordingly dismissed.
- 3 However, the Petitioner is at liberty to pursue its remedies before the Election Commission of India.
- 4 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[J B Pardiwala]

**New Delhi;
March 17, 2023**

Signature Not Verified
Digitally signed by
GULSHAN KUMAR
ARORA
Date: 2023.03.28
15:58:32 IST
Reason: 

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CONTEMPT PETITION (CIVIL) Diary No(s). 36053/2022
(Arising out of impugned final judgment and order dated 25-09-2018
in W.P.(C) No. No. 536/2011 passed by the Supreme Court Of India)

ASSOCIATION FOR DEMOCRATIC REFORMS**Petitioner(s)****VERSUS****JP NADDA & ORS.****Respondent(s)**

IA No. 187820/2022 - APPLICATION FOR EXEMPTION FROM FILING THE
RESIDENTIAL ADDRESS OF RESPONDENT/CONTEMNOR WITH AFFIDAVIT)

Date : 17-03-2023 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. Chander Uday Singh, Sr. Adv.
Mr. Abhimanue Shrestha, AOR
Ms. Shivani Kapoor, Adv.
Ms. Bidya Mohanty, Adv.
Ms. Vidushi, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 We are not inclined to entertain the Contempt Petition.
- 2 The Contempt Petition is accordingly dismissed.
- 3 However, the Petitioner is at liberty to pursue its remedies before the Election Commission of India.
- 4 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)