

Judgments that reformed the Indian Electoral and Political System

- **Disclosure of Candidate Background (Criminal, Educational & Financial) to Election Commission:** On May 2, 2002 and March 13, 2003, the Supreme Court of India in *Association for Democratic Reforms and others vs. Union of India and others; (2003)2 SCR 1136* had directed background information of candidates contesting elections to any National or State Assembly elections to be made available to the voter. A candidate is now required under Section 33A of the RPA, read with Rule 4A of Conduct of Election Rules, 1961 to file an affidavit in Form 26 appended to the Conduct of Election Rules, giving information regarding their assets, liabilities, and criminal proceedings against them, if any. Specifically, the following information is required under Form 26 read with Rule 4A of the Conduct of Election Rules:
 - In case the candidate is accused of any offence punishable with two years or more, and charges have been framed by the Court, information such as the FIR No., Case No. and the date of framing of charges;
 - Details of conviction in any case not included in Section 8 of the RPA, where the sentence was for one year or more;
 - PAN Number and status of filing of Income Tax Return for the candidate, spouse and dependents;
 - Details of movable and immovable assets of the candidate, spouse and all dependents;
 - Details of liabilities of the candidate to public financial institutions or to the government; and
 - Details of profession or occupation and of educational qualifications.
- **Disclosure of Income Tax Returns of Political Parties:** On 29th April 2008, the Central Information Commission in an appeal filed by ADR made the Income Tax Returns (ITR) and Assessment Orders of political parties available for the public under the Right to Information (RTI) Act. The CIC held that it is recognized that political parties do need large financial resources to discharge their myriad functions. But this recognition is tinged with the apprehension that non-transparent political funding could, by exposing political parties, and through it the organs of State which come under the control or its influence, to the corrupting

influence of undisclosed money, can inflict irreversible harm on the institutions of government. There is public purpose in preventing such harm to the body-politic.

- **Register of Interests of Rajya Sabha Members:** On 3rd June 2011, the Central Information Commission in an appeal filed by ADR brought the Pecuniary information of the Rajya Sabha (Upper House of Parliament) members in the public domain. The Commission held that the knowledge among the citizens about the pecuniary interest of MPs in various companies and other business establishment would help them to keep a better watch on their representatives when they would be dealing with policy and other legislative matters affecting the interests of such companies and business interests. It is the standard practice that people in positions where they can make decisions or influence policies affecting the financial and other interests of the companies should ordinarily recuse themselves from such a process if they themselves have an interest in those specific companies or class of enterprise, to avoid conflict of interest. This should be equally applicable to the legislators. If the legislators have any stated interest in some companies or business houses as directors or consultants or substantial shareholders, their participation in any legislative or decision making affecting the interest of such companies or business houses would be keenly watched by people. This kind of vigilance on part of informed citizenry will help legislators to be more objective and fairer in their functioning and those will help in better laws being enacted and better policies being made.
- **Political parties under the ambit of RTI Act:** On June 3, 2013, Central Information Commission (CIC), had declared six national political parties, namely the INC, BJP, CPI(M), CPI, NCP and BSP to be “public authorities” under Section 2(h) of the RTI Act, on a complaint filed by ADR and Mr. Subhash Chandra Agrawal. The Commission directed the Presidents, General/Secretaries of these Political Parties to designate CPIOs and the Appellate Authorities at their headquarters in 06 weeks’ time. The CPIOs so appointed were also ordered to respond to the RTI applications extracted in this order in 04 weeks’ time. Besides, the Presidents/General Secretaries of the above-mentioned Political Parties were also directed to comply with the provisions of section 4(1) (b) of the RTI Act by way of making voluntary disclosures on the subjects mentioned in the said clause. The Commission held that the criticality of the role being played by these Political Parties in our democratic set up and the nature of duties performed by them also point towards their public character, bringing them in the ambit of section 2(h).

None of the parties complied with the Commission's order. Ultimately on 16th March 2015, the CIC said that the RTI Act does not provide the Commission with ample powers to deal with the cases of contempt and non-compliance. On 19th May 2015 ADR filed a petition in the Supreme Court to declare all the national and regional political parties as "public authorities" and bring them within the ambit of the Right to Information (RTI) Act. As per the Supreme Court's website, next date of hearing of the petition is 18-07-2023.

- **Guidelines for election manifesto:** On 5th July, 2013 the Supreme Court of India in *S. Subramaniam Balaji vs. State of Tamil Nadu and Ors.; (2013) 9 SCC 659* had directed the ECI to frame guidelines governing election manifestos in consultation with all the recognized political parties. Supreme Court further directed that a separate head for guidelines for election manifesto released by a political party can also be included in the Model Code of Conduct for the Guidance of Political Parties & Candidates. The court held that an exception can be made in this regard as the purpose of election manifesto is directly associated with the election process. The court further observed that generally political parties release their election manifesto before the announcement of election date and in that scenario, strictly speaking, the Election Commission will not have the authority to regulate any act which is done before the announcement of the date. the Election Commission of India through its letter No. 436/6/manifesto/2013 dated 19th February, 2014 had issued guidelines in connection with the release of election manifestos for any election to the Parliament or State Legislatures, for compliance by all the political parties:
 - The election manifesto shall not contain anything repugnant to the ideals and principles enshrined in the Constitution and further that it shall be consistent with the letter and spirit of other provisions of Model Code of Conduct.
 - The Directive Principles of State Policy enshrined in the Constitution enjoin upon the State to frame various welfare measures for the citizens and therefore there can be no objection to the promise of such welfare measures in election manifestos. However, political parties should avoid making those promises which are likely to vitiate the purity of the election process or exert undue influence on the voters in exercising their franchise.
 - In the interest of transparency, level playing field and credibility of promises, it is expected that manifestos also reflect the rationale for the promises and broadly indicate the ways and means to meet the financial requirements for it.

Trust of voters should be sought only on those promises which are possible to be fulfilled

- **Disqualification Of Convicted MPs/MLA:** On 10th July, 2013 Supreme Court of India in 2013 in *Lily Thomas vs. Union of India and Ors; (2013) 7 SCC 653* declared Section 8(4) of the RP Act, 1951 as ultra vires the Constitution. It held that if any sitting member of Parliament or a State Legislature is convicted of any of the offences mentioned in sub-sections (1), (2) and (3) of Section 8 of the Representation of People Act and by virtue of such conviction and/or sentence suffers the disqualifications mentioned in sub-sections (1), (2) and (3) of Section 8 of the Act his/her membership of Parliament or the State Legislature, as the case may be, will not be saved by subsection (4) of Section 8 of the Act notwithstanding that he files the appeal or revision against the conviction and /or sentence. Clause 8(4) had provided special privilege to MPs/MLAs to hold the office even after conviction if an appeal has been filed in a higher court within the span of 3 months.
- **Ban on Caste- based rallies:** On 11th July, 2013, the Allahabad High Court in *Moti Lal Yadav Vs. Chief Election Commissioner, ECI & Ors; MISC. BENCH No. - 5889 of 2013* held that unrestricted freedom to hold caste-based rallies, which is to the total disliking and beyond the comprehension of the modern generation and also being contrary to the public interest, cannot be justified. It will rather be an act of negating the rule of law and denying the fundamental rights to citizens. The court issued notices to the respondents with direction that there shall be no caste-based rallies with political motive throughout the State of UP.
- **Rejection of nomination papers in case of blank affidavits:** On 13th September, 2013 Supreme Court of India in *Resurgence India Vs. ECI & Anr.; 2014 AIR(SC) 344* made it compulsory for the Returning Officers to ensure that the affidavits filed by the contestants at the time of elections are complete in all respects and to reject those affidavits having blank particulars. Filing of affidavit with blank particulars will render the affidavit nugatory. The court said that it is the duty of the Returning Officer to check whether the information required is fully furnished at the time of filing of affidavit with the nomination paper since such information is very vital for giving effect to the 'right to know' of the citizens. If a candidate fails to fill the blanks even after the reminder by the Returning Officer, the nomination paper is fit to be rejected. The candidate must take the minimum effort to explicitly remark as 'NIL' or 'Not Applicable' or 'Not known' in the columns and not to leave the particulars blank.

- None of the Above Button on EVMs:** On 27th September, 2013, the Supreme Court of India in *People's Union for Civil Liberties Vs. UOI & Ors; 2013 (10) SCC 1* ordered inclusion of NOTA buttons on the EVMs so that the voters, who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote while maintaining their right of secrecy. The NOTA button was inserted in the EVM machines first time during the 2014 Lok Sabha elections. NOTA option gives the voter the right to express his/her disapproval with the kind of candidates that are being put up by the political parties thereby forcing the political parties to accept the will of the people and field candidates who are known for their integrity.
- Prohibition on use of beacon lights :** On 10th December, 2013 the Supreme Court of India in *Abay Singh vs. Union of India and others SLP(C) 23984/2010* held that only "high dignitaries" as specified by the State and Central government can use red lights and that too on when on duty. It was also directed that the scope of the term "high dignitaries" cannot be enlarged by the government. The Court observed that the red lights symbolize power and a stark differentiation between those who are allowed to use it and the ones who are not. A large number of those using vehicles with red lights have no respect for the laws of the country and they treat the ordinary citizens with contempt. The use of red lights on the vehicles of public representatives and civil servants has perhaps no parallel in the world democracies. The court held that The motor vehicles carrying "high dignitaries" specified by the Central Government and their counterparts specified by the State Government may be fitted with red lights but the red lights with or without flasher can be used only while the specified high dignitary is on duty and not otherwise. The men in uniform; operational agencies which require un-hindered access to the roads for performance of their duty; those engaged in emergency duties such as ambulance services, fire services, emergency maintenance etc, and police vehicles used as escorts or pilots or for law-and-order duties shall not be entitled to have red lights but lights of other colours, e.g., blue, white, multicoloured etc. It was also held that no motor vehicles except those specified in Rule 119(3) of the Central Motor Vehicles Rules, 1989 or similar provisions contained in the rules framed by the State Governments or the Administration of Union Territories shall be fitted with multi-toned horns giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise.
- Trial of MPs and MLAs within one year:** On 10th March, 2014 the Supreme Court of India in *PFI & Ors. Vs. Union of India & Ors. W.P (C) No. 536/2011* directed all High Courts that in relation to sitting MPs and MLAs who have charges framed against them for the offences which are specified in Section 8(1), 8(2) and 8(3) of the RP Act, the trial shall be concluded as

speedily and expeditiously as may be possible and in no case later than one year from the date of the framing of charge(s). The Court further held that as far as possible, the trial shall be conducted on a day-to-day basis. If for some extraordinary circumstances the concerned court is being not able to conclude the trial within one year from the date of framing of charge(s), such court would submit the report to the Chief Justice of the respective High Court indicating special reasons for not adhering to the above time limit and delay in conclusion of the trial. In such situation, the Chief Justice may issue appropriate directions to the concerned court extending the time for conclusion of the trial.

- **Foreign funding taken by INC and BJP:** On 28th March, 2014 in *ADR and others vs. Union of India and others; W.P (C) 131/2013* the Delhi High Court found BJP and INC guilty of taking foreign funding and thereby violating the provisions of FCRA, 1976. The judgement drew attention to the donations made to INC and BJP for the period up to the year 2009. The High Court directed MHA and ECI to relook and reappraise the receipts of the political parties and identify foreign contributions received by foreign sources as per law and take action as contemplated by law within six months of the date of the receipt of the judgment.

In an attempt to overturn the judgment passed by the Delhi High Court, amendments were made in the Foreign Contribution Regulation Act, 2010 through the Finance Act, 2016 and Finance Act, 2018, which was passed as a Money Bill with retrospective effect from the year 1976. These amendments now allow foreign companies with subsidiaries in India to fund political parties in India. Consequently, a petition was filed by ADR and Mr. E.A.S Sarma on 25th April, 2018 challenging these amendments. As per the Supreme Court's website, next date of hearing is 12-07-2023.

- **Election Commission's power to disqualify a candidate for not filing correct statements of election expenditure:** On 5th May, 2014 in *Ashok Shankararao Chavan vs. Madhorao Kinhalkar and others with Madhu Koda vs. ECI; (2014) 7 SCC 99* the Supreme Court of India held that the Election Commission has the requisite powers under 10A of RP Act, 1951 to hold necessary inquiry on the compliance of the statutory requirements in the matter of submission of accounts of the election expenses, i.e. the true, correct and bonafide expenses and that such expenses are within the prescribed limit of the Act. The court also held that ECI has the power to disqualify a candidate in relation to filing of wrong election expenditure

statements. Based on the observations, the Court had asked ECI to conclude inquiries against Ashok Chavan and Madhu Koda within 45 days and take appropriate action.

- **Suppression of information regarding assets of spouse in the affidavit:** On 9th May, 2014 the Supreme Court of India in *Kishan Shankar Kathore Vs. Arun Dattatray Savant & Ors, Civil Appeal No. 4261/2007* held that non-disclosure of information, which is very vital to enable the voter to form his/her opinion about the candidate's antecedents, results in misinformation and disinformation thereby influencing the voters to take an uninformed decision. The court held that if the required information in respect of the assets of the candidate, his/her spouse and dependent children is not given, it would amount to suppression/non-disclosure. The court stated that in case of misinformation or suppression of vital information in the affidavits by the candidate, nomination of such a candidate is liable to be rejected and it can be held that the candidate was not entitled to contest and the election is void.
- **Separation of Powers though not specifically mentioned in the Constitution is still an entrenched principle:** On 7th May, 2014 the Constitution Bench of the Supreme Court in *State of Tamil Nadu v.State of Kerala and Another; 9 (2014) 12 SCC 696* had laid down following principles regarding separation of powers:-
 - I. Doctrine of separation of powers is an entrenched principle in the Constitution of India even though there is no specific provision in the Constitution;
 - II. Independence of Courts from Executive and Legislature is fundamental to the rule of law and one of the basic tenets of the Indian Constitution;
 - III. Doctrine of separation of powers between the three organs of the State – Legislature, Executive and the Judiciary is a consequence of principles of equality enshrined in Article 14 of the Constitution of India. Consequently, a law can be set aside on the ground that it breaches the doctrine of separation of powers since that would amount to negation of equality under Article 14 of the Constitution of India;
 - IV. The High Courts and the Supreme Court are empowered by the Constitution of India to determine whether a law made by the Parliament or State Legislature is void;
 - V. Doctrine of separation of powers applies to the final judgments of the courts. The Legislature cannot declare any decision of a court of law to be void or of no effect. It can, however, pass an amending Act to remedy the defects pointed out by a court of law or on coming to know of it aliunde;

VI. If the Legislature has the power and competence to make a validating law it can make the law retrospective;

VII. Even where the law is enacted by the Legislature appears within its competence but if in substance it is shown as an attempt to interfere with the judicial process, such law can be invalidated being in breach of the doctrine of separation of powers.

- **Duty of PM & CMs not to appoint ministers against whom charges have been framed by a criminal court:** On 27th August, 2014, Supreme Court of India in *Manoj Narula Vs. Union of India; (2014) 9 SCC 1* observed that it is the prophetic duty of this Court to remind the key duty holders about their role in working the Constitution. The Supreme Court advised the Prime Minister and the Chief Ministers of the State, who themselves have taken oath to bear true faith and allegiance to the Constitution of India and to discharge their duties faithfully and conscientiously, will be well advised to consider avoiding any person in the Council of Ministers, against whom charges have been framed by a criminal court in respect of offences involving moral turpitude and also offences specifically referred to in Chapter III of The Representation of the People Act, 1951.
- **Cancellation of election of law makers on suppression of information about pending criminal cases which are within a special knowledge of candidate:** On 5th February, 2015 the Supreme Court of India in *Krishna Moorthy Vs. Sivakumar & Ors; AIR 2015 SC 1921* ruled that disclosure of criminal antecedents of a candidate, especially, pertaining to heinous or serious offence or offences relating to corruption or moral turpitude at the time of filing of nomination paper as mandated by law is categorically imperative. In this judgment, the court held that in cases where a candidate has the special knowledge of the pending cases where cognizance has been taken or charges have been framed and there is a non-disclosure on candidate's part, it would amount to undue influence and, therefore, his/her election would be declared null and void by the Election Commission under Section 100(1)(b) of the Representation of People Act, 1951.
- **Special 11 fast-track courts:** On 1st November, 2017, the Supreme Court of India in *Ashwini Kumar Upadhaya vs Union of India, W.P (C) No. 699/2016* ordered setting up of Special Courts to deal with 1581 cases involving MPs and MLAs as declared at the time of filing of the nomination papers for the 2014 elections. Eleven states have set up 12 special courts. There are two in Delhi and one each in Andhra Pradesh, Telangana, Karnataka, Kerala, Tamil Nadu, Uttar Pradesh, Bihar West Bengal, Maharashtra and Madhya Pradesh.

- **Inclusion of Sources of Income column in Form 26 and permanent mechanism for scrutiny of affidavits of MPs/MLAs with disproportionate assets increase:** On 16th February, 2018, the Supreme Court of India *in Lok Prahari vs. Union of India and others, W.P (C) No. 784/2015* granted following relief:
 - Sources of income of spouse and dependents to be included in form 26 (affidavits).
 - Permanent mechanism for scrutiny of affidavits.
 - Non-disclosure of assets and sources of income would amount to ‘undue influence’ – a corrupt practice under Section 123(2) of the RP Act of 1951.
 - Information regarding the contracts, if any with the appropriate government either by the candidate or his/her spouse and dependents.
- **Concealment of information by Maharashtra C.M. Devendra Fadnavis in his affidavit regarding two criminal cases where cognizance was taken by the court:** On 1st October, 2019 the Supreme Court of India in *Satish Ukey vs. Devendra Gangadharrao Fadnavis SLP (Crl.) 19-20/2018* held that for maintaining purity of elections and healthy democracy, voters are required to be educated and well informed about the contesting. In his former Maharashtra C.M. Devendra Fadnavis had not mentioned the information regarding two criminal cases prescribing punishment of more than two years and where cognizance was taken by the court during the Maharashtra State Assembly elections, 2014. The Supreme Court stated;
 - Mr Devendra Gangadharrao Fadnavis missed out on giving details of two cases where court has taken the cognizance.
 - Section 33-A of the Representation of Peoples Act, 1951 and Rule 4-A of the Conduct of Election Rules, 1961 and Form-26 make it amply clear that the information to be furnished also includes cases where cognizance has been taken by the court.
 - Under Section 33-A(1) of the Representation of Peoples Act, 1951, cases in which cognizance has been taken by the court was not added, despite 2002 & 2003 SC ruling.
 - Details of all pending cases in which cognizance has been taken by the Court, irrespective of the quantum of punishment or framing of charges will have to be disclosed by the candidate.
 - Under Section 125A, furnishing of any false information or concealing of information in the affidavit in Form 26 is an electoral offence punishable with imprisonment upto six months, or with fine or both.

- Order of the High Court as well as trial court justifying this concealment is not legally tenable and the same deserves to be set aside.
 - The complaint of the appellant will be considered afresh by the learned trial Court.
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- **Publication of criminal cases against candidates selected by political parties along with reasons for such selection.** On 13th February, 2020 the Supreme Court of India *in Rambabu Singh Thakur Vs. Sunil Arora and Ors; Contempt Petition (C) No. 2192/2018* 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’*.
 - **Guiding principles regarding powers given under Section 321 of the Cr.P.C:** On 28 July, 2021 in *State of Kerala Vs. K. Ajith, (2021) SCC Online SC 510*, the Supreme Court had laid down some guiding principles regarding powers given under Section 321 of the Cr.P.C on withdrawal of cases by the State Govts. While giving the judgment, the SC had said that the power under Section 321, Cr.P.C. is a responsibility which is to be utilized in public interest, and cannot be used for extraneous and political considerations and is required to be utilized with utmost good faith to serve the larger public interest.
 - Section 321 entrusts the decision to withdraw from a prosecution to the Public Prosecutor but the consent of the court is required for a withdrawal of the prosecution;
 - The Public Prosecutor may withdraw from a prosecution not merely on the ground of paucity of evidence but also to further the broad ends of public justice;

- The Public Prosecutor must formulate an independent opinion before seeking the consent of the court to withdraw from the prosecution;
- While the mere fact that the initiative has come from the Government will not vitiate an application for withdrawal, the court must make an effort to elicit the reasons for withdrawal so as to ensure that the Public Prosecutor was satisfied that withdrawal of prosecution is necessary for good and relevant reasons;
- In deciding whether to grant its consent to a withdrawal, the court exercises a judicial function but it has been described to be supervisory in nature. Before deciding whether to grant its consent, the court must be satisfied that:
 - The function of the Public Prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes;
 - The application has been made in good faith, in the interest of public policy and justice, and not to thwart or stifle the process of law;
 - The application does not suffer from such improprieties or illegalities as would cause manifest injustice if consent were to be given;
 - The grant of consent sub-serves the administration of justice; and
 - The permission has not been sought with an ulterior purpose unconnected with the vindication of the law which the public prosecutor is duty bound to maintain;
- While determining whether the withdrawal of the prosecution sub-serves the administration of justice, the court would be justified in scrutinising the nature and gravity of the offense and its impact upon public life especially where matters involving public funds and discharge of a public trust are implicated; and
- In a situation where both the trial judge and the revisional court have concurred in granting or refusing consent, the Supreme Court while exercising its jurisdiction under Article 136 of the Constitution would exercise caution before disturbing concurrent findings. The Supreme Court may interfere in a case where there has been a failure of the trial judge or of the High Court to apply correct principles in deciding whether to grant or withhold consent.
- **Misuse of Public Prosecutor's power under Section 321 of Cr.P.C:** On 10th August, 2021 the Supreme Court of India in *Ashwini Kumar Upadhyay & Ors. v. Union of India & Ors, W.P (C) No. 699/2016* took notice of various instances across the country, wherein various State Governments have resorted to withdrawal of numerous criminal cases pending against M.P./M.L.A. by utilising the power vested under Section 321, Cr.P.C. and observed that "*it merits mentioning that the power under Section 321, Cr.P.C. is a responsibility which is to be*

utilized in public interest, and cannot be used for extraneous and political considerations."

The Supreme gave following orders;

- **About withdrawal of cases:**
 - No prosecution against a sitting or former M.P./M.L.A. shall be withdrawn without the leave of the High Court in the respective suo-motu writ petitions registered in pursuance of SC order dated 16.09.2020. The High Courts are requested to examine the withdrawals, whether pending or disposed of since 16.09.2020, in light of guidelines laid down by the Supreme Court.
 - The Court had clarified that the sanction of the High Court is needed even to withdraw cases on ground of malicious prosecution
- **Continuity of Tenure for Judicial Officer:** To ensure expeditious disposal of pending cases, the Supreme Court has directed the officers presiding over Special Courts or CBI Courts involving prosecution of MPs or MLAs to continue in their present posts until further orders. This direction, barring transfer of Judicial Officers, will be subject to their superannuation or death. If any further necessity or emergency arises, the Registrar General of the High Courts are at liberty to make an application before us for retention or to relieve those officers.
- **Constitutional validity of the current practice of appointment of Chief Election Commissioner and Election Commissioners by Executive:** On 2nd March, 2023 a five-judge Constitution Bench of the Supreme Court comprising Justices KM Joseph, Ajay Rastogi, Aniruddha Bose, Hrishikesh Roy and CT Ravikumar in by *Anoop Baranwal and others Vs. Union of India and others. W.P (C) No. 104/2015* gave a landmark judgment directing the appointment of Members of Election Commission to be done on the advice of a committee comprising the Prime Minister, Chief Justice of India and the Leader of Opposition (or the leader of single largest opposition party) in the Lok Sabha till a law is made by the Parliament. It was also held that the grounds of removal of the Election Commissioners shall be the same as that of the Chief Election Commissioner that is on the like grounds as a Judge of the Supreme Court subject to the "recommendation of the Chief Election Commissioner" as provided under the second proviso to Article 324(5) of the Constitution of India.

The bench stated that there is lacuna in law relating to the appointment process of Members of Election Commission and, therefore, *"any process that seeks to improve the election process before this Court must be considered."* its judgment, the Bench observed; *"The*

Election Commissioners will be appointed by the President of India on the advice of a committee consisting of the Prime Minister, and leader of Opposition in Lok Sabha, or leader of largest opposition party in cases where there is not enough numerical strength for a leader of opposition, and the Chief Justice of India.”

- **Voter’s right to know about the full background of a candidate:** On 24th July, 2023, the Supreme Court of India in ***Bhim Rao Baswanth Rao Patil vs. K. Madan Mohan Rao & Ors.*** : ***WP(C) 6614/2023*** held that elector or voter’s right to know about the full background of a candidate is an added dimension to the rich tapestry of our constitutional jurisprudence. The court observed that right to vote, based on an informed choice, is a crucial component of the essence of democracy. This right is precious and was the result of a long and arduous fight for freedom, for Swaraj, where the citizen has an inalienable right to exercise her or his right to franchise.