



Criminalisation of Politics in India



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ABSTRACT

Criminalisation of politics in India is a matter of serious concern. There is an increasing trend of criminal elements in Indian political system. Criminalisation of politics creates a big hurdle in establishing a free and fair election . It undermines the democratic values. Many committees and commissions were formed by Indian government to study and check criminalisation of politics. Government has implemented only few recommendations of all these committees. It seems government is not very serious in elimination of criminal elements from politics. Supreme Court and activism of supreme court have contributed in checking of involvement of criminals in electoral process through its judgement up to a certain extent. Election commission is not able to effectively curb the criminalisation of politics through The Representation of people act 1951 and Model code of conduct. The government will have to come with comprehensive laws to ban candidate from contesting election ,who are facing criminal charges against against them . Along with increasing high literacy rate there is also need of giving value education to children ,it will help in long term to eliminate criminal elements from electoral process, because an educated voter takes rational decision while casting his or her votes. To keep our democratic system healthy, it is very necessary to prevent entry of candidate with criminal background in electoral system. The basic purpose of this article is to analyse the criminalisation of politics, its nature, and reasons for its persistence in electoral politics and how criminalisation of politics impact voters. To establish true democracy on the basis of will of people, it is necessary to elect our representative through conduct of free and fair election. – T.N.Seshan ,former Chief Election Commission of India.

Keywords :- Criminal, criminalisation, supreme court, election commission, committees.

INTRODUCTION

Election is one of the most essential thing in political process which is necessary to keep democratic system very alive. A fair election gives a right message to country's citizen to keep their faith in the election process. In a democratic country a representative is supposed to be representative of voters in real sense and expected to bring a positive change in the society for its development. The whole system may be hampered if criminal elements get involved in electoral process. The phenomena of entering of criminals in political process is referred as

criminalisation of politics. It becomes a matter of serious concern for a democratic system like India. Criminalisation of politics undermines the democratic values like equal participation in political process, equality of opportunity in public life, right to free and fair elections etc. Supreme Court in one of its judgements held that criminalisation of politics and its increasing trend is a disastrous situation for Indian democratic system. A free and fair election along with keeping criminal elements away from electoral process is very necessary to keep a clean political system. Till fourth Lok Sabha election, there were very few members of parliament who had serious criminal cases against them. After fourth Lok Sabha, criminalisation of politics started. Nowadays there is increasing tendency of criminalisation of politics. According to Association for Democratic Reforms there is one hundred nine percentage increase in 2019 election of Lok Sabha in member of parliament in serious criminal cases since 2009. Forty three percentage member of parliament in 2019 are facing criminal cases, in 2014 it was thirty four percentage, in 2009 it was thirty percentage.

REASONS FOR CRIMINALISATION OF POLITICS

These are the following reasons for criminalisation of politics .

- a. The nexus between criminal and politicians lead to criminalisation of politics .criminal provides money and muscles to politicians and political parties during election.
- b. Criminals enter into politics to gain political power. It helps them in bargaining in political power with politicians and executives of the state.
- c. Being a representative makes their status high in society, is one of the reason.
- d. Political parties do not hesitate in giving ticket to candidate with criminal background because their chance to win become double in compare to a candidate with clean background as Association for Democratic Reforms observed.
- e. Entering into politics of criminal candidate helps them in making links with politicians and bureaucrats.
- f. Model code of conduct and The Representative of People Act, 1951 do not contain effective provisions to check entry of criminal background candidate and politicians in electoral process.
- g. Due to toothless law ,criminal elements enter into politics. There is low rate of conviction for members of parliament and legislative assembly, it is only six percentage ,while conviction rate at all India level is forty six percentage.
- h. There is lack of inner party democracies in India. There is no any law and provisions which regulate the election and appointment within the party.
- i. Even if a politician is barred from contesting elections, they can hold high post in his or her party.

IMPACT OF CRIMINALISATION OF POLITICS IN INDIA

Those who violate laws become law maker it seriously undermines the democratic values of our political system. There is loss of public faith in our institutions like in judiciary, election system. Due to low rate of conviction it does not give a strong message to criminal from contesting an election. This undermines the judiciary election commission and indirectly the whole electoral system. Criminalisation of politics makes a tainted democracy. In this caste ridden society, sometimes caste of a big criminal candidate or representative gives a sense of pride for

voters who have same caste, which further divides our society along caste line and a type of intensive for criminals to contest election. Political parties focus on winnability of candidate, it further lead to inclusion of criminal in the electoral process. In long time criminalisation of politics can make a whole political system ineffective. Criminalisation of politics may become a new normal in the eyes of people. It make a mind map among people that candidate with criminal background have higher chances of winning. It also prevents a candidature with clean background from contesting elections. Milan Vaishnav in his book When crime Pays: Money and Muscle in Indian Politics observed that a big criminal have big nexus with politicians and bureaucrats. A bigger criminal has big influencing power in political system. Political parties also keep high expectation of winning in the election from big criminal candidate. This is how criminals influencing political parties and system and it led to criminalisation of politics. Political parties and criminal candidate both work for each other. Criminalisation of politics also influences voting pattern of people apart from vote buying by criminal candidates, people also vote for criminal candidate out of fear. Voters think if they do not give votes to criminal politicians, after the election that criminal candidate may harass them by many means. In long term criminalisation of political system may mock mockery of whole electoral process.

SOME LEGAL PROVISIONS TO CHECK CRIMINALISATION OF POLITICS

- a. Article 102(1) and Article 191 (1) disqualifies member of parliament and member of legislative assembly from contesting an election on certain grounds, like if he holds any office of profit under government of India or government of any state, if he is unsounded mind, un-discharged insolvent, voluntarily acquired the citizenship of a foreign country etc.
- b. Section 8 of The Representation of People Act,1951 bans convicted politicians from contesting an election, but those who are facing trials are not barred from contesting election, it does not matter how much serious crime charges are against them.

SOME JUDGEMENTS OF SUPREME COURT

- a. In Union of India vs Association for Democratic Reform 2002, supreme court in a judgement asked all contesting candidate to declare their all asset and properties, criminal cases and pending cases in court at the time of filing of his or her nomination.
- b. Supreme court in judgement in Lily Thomas case 2013, remarked that a sitting member of parliament and member of legislative assembly who get punishment for two year or more will lose their seat in the legislative immediately.
- c. In People's union for civil liberties vs Union of India 2014, supreme court gave direction to election commission to include none of the above (NOTA) option to make a moral pressure on political parties to keep clean background candidate in election fry.
- d. Supreme court in n Public Interest vs Union of India case 2014,asked all trial courts to complete trial of cases within one year where the legislator is involved.
- e. Supreme Court in 2018 in Public Interest Foundation case 2018 asked candidate to disclose pending criminal cases against them by themselves through election commission.

VARIOUS COMMITTEES' OBSERVATION ON CRIMINALISATION OF POLITICS

The Santhanam committee report 1963, pointed out dangerous of political corruption is more than the corruption done by officials, and ministers and politicians should not use their post for personal gain. Santhanam committee also recommended to set up a vigilance commission. Considering its recommendation Indian government set up central vigilance commission in 1964 and parliament gave a statutory status to central vigilance commission in 2003.

Vohra committee report 1993, this committee was set up to know the problems of criminalisation of politics and nexus between criminal politician and bureaucrats. This report was never published. It is says that this report contains some very sensitive content which might bring uproar in parliament and legislative assemblies of state. K.Padmanabiah Committee on Police Reforms 2000, observed that the cause of corruption in police is the nexus between politicians and police. Corruption also lead to criminalisation of police along with criminalisation of political system.

CONCLUSION

Criminalisation of politics is not good for political system in India. Inclusion of criminals in Indian electoral system reduces the chances of winnability of candidate with a clean background. If a criminal candidate becomes our representative, it is certainly going to be disastrous for our societies' development. It is right time to check the entry of criminal background politicians from entering into politics. Parliament should come with comprehensive laws and provisions to ban a candidate from contesting an election who are facing criminal charges. There are lot of judgements given by Supreme Court, all these judgement should be implemented in letter and spirit. Sole concern of democracy is giving voice to voiceless, equal participation to all in political process ,but criminalisation of politics kill these democratic opportunities. In a democracy values of vote is one of the most powerful weapon of every citizen but these votes are bought with the help of money, and voters' decisions can be influenced by many tactics by candidate, it certainly erodes the values of votes. Government has to be serious in keeping away criminals from politics .Government should take the recommendations of various committees which were constituted for reforming the political process. Within political party there is also need to prevent the entry of criminals background people. In political party many banned candidate from contesting an election holds an important positions in party. There is also need to reform in The Representation of people act 1951 and model code of conduct which is not able to prevent the criminalisation of politics. There is also need to bring political awareness among people. People do not keep high expectation from their representative so they do not care much about importance of their vote. Our societies is also a caste ridden societies where it is easy for candidate to polarise the voters along caste lines. It is said Indians do not cast their votes, they vote their castes. All these factors directly and indirectly help in increasing the criminalisation of politics .It is also necessary to give quality education ,Quality education will help in inculcating ethics in children in long time it will reduce in casteism ,communalism and certainly in reduction of criminalisation of politics. Increasing literacy rate is also necessary, a literate voter may take a rational decision while casting his or her vote. A minimum standard of qualification can be contemplate for contesting an election. It is very important to check rampant increase of criminalisation of politics to keep smooth and effective functioning of our Indian democracy.

A society can hardly progress where a rule breaker becomes a rule maker. They forget the real purpose and of representative and try to get personal benefit by using his positions. When criminal background candidates become representatives they also promote criminal elements in the political system, and this phenomena continue to grow, and establish a chain of criminal in the whole political system. Political parties should take some own initiative to not giving ticket or any post within parties to criminal background candidate, only winnability should not be the criteria for giving ticket . They should not forget what Mahatma Gandhi has said that politics and ethics should not be separated. End (winning of candidate)does not justifies the means, means should be also good. If means are good ,then means itself will take care of end. We must strive to establish a New India which is based on the visions of our founding fathers of nations.

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