



## Power of ECI to Deregister Political Party

**For Prelims:** [Election Commission of India \(ECI\)](#), [Model Code of Conduct \(MCC\)](#), [Star campaigners](#), [Political parties](#), [Indian Constitution](#), [Representation of the People Act, 1951](#), [National party](#), [State party](#), [Election Symbols \(Reservation and Allotment\) Order, 1968](#), [Income Tax Act, 1961](#), [Supreme Court](#)

**For Mains:** [Money laundering](#), [MCC violations](#), [Electoral reforms](#), [Law Commission](#), Issues in De-registration of Political Party

[Source: TH](#)

### Why in News?

Recently, the [Election Commission of India \(ECI\)](#) reported on the enforcement of the [Model Code of Conduct \(MCC\)](#), emphasising that [star campaigners](#) are expected to lead by example and not disrupt societal harmony.

- This statement has sparked a debate about the **ECI's authority** to address MCC violations including the ability to deregister parties.

### What does the Derecognition of Political Parties Mean?

- **About:**
  - [Derecognition](#) refers to the **withdrawal of recognition** of a political party by the ECI.
  - Such parties are simply declared as [registered-unrecognised parties](#).
    - These parties are eligible to contest the election but **loses the privileges of the recognised party**.
  - The ECI has the power to derecognise a political party if it **violates the provisions of the Indian Constitution** or the [Representation of the People Act, 1951](#).
- **Recognised Party:**
  - A registered party is referred to as a **Registered Unrecognised Political Party (RUPP)**.
  - Political parties are recognised as a **'national'** or **'State'** party under the provisions of The [Election Symbols \(Reservation and Allotment\) Order, 1968 \(Symbols Order\)](#) by the ECI.
  - The criteria for recognition at the 'national' or 'State' level consists of **winning a requisite number of seats** and/or obtaining a required percentage of votes in a general election to [Lok Sabha \(LS\)](#) or [State Assembly \(SA\)](#).
  - At present, there are **six 'national' parties**, and **sixty-one 'State' parties** that have been recognised.
    - These **recognised parties enjoy** additional concessions of having a reserved symbol during elections and **forty 'star campaigners'**.
    - They are also **allowed to freely use state-owned television and radio during polls** since the 1998 Lok Sabha elections.
- **Grounds for Derecognition of a Political Party as a National Party:**
  - If the party fails to secure **at least 6% of the total votes** polled in the general election to

the LS or the legislative assembly of the state concerned, and if it fails to have at least 4 MPs elected in the last LS polls (also, it doesn't win 1 seat in the LS from the same state.); or

- If it has won at least 2% of the total seats in the LS from at least 3 states.
- If it fails to secure 8% of the total valid votes polled in the state at a General Election to the LS from the state or to the State LA.
- If the party fails to submit its audited accounts to the ECI on time.
- If the party fails to hold its organisational elections (Inner party election) on time.

# POLITICAL PARTY SYSTEM

*Groups of like-minded individuals voluntarily organise to gain political power through constitutional means, aiming to promote the national interest*

▶ **Three Types of Party Systems :** One Party (China), Two Party (USA), Multi-Party (India)

▶ **Parties in India:**

▶ **National (6) :** E.g. Aam Aadmi Party (AAP), Bharatiya Janata Party (BJP), Indian National Congress (INC), Bahujan Samaj Party (BSP), Communist Party of India (Marxist) (CPI-M), and National People's Party

▶ **State :** E.g. DMK, AIADMK, Telugu Desam, Shiv Sena, Asom Gana Parishad, Mizo National Front, etc.

▶ Recognised national/state parties allotted a symbol exclusively reserved for its use in their respective jurisdiction

## Criteria for National Party Recognition

▶ Secures 6% of valid votes (VV) polled in any 4 or more states at a general election (GE) to the Lok Sabha (LS)/Legislative assembly (LA)+it wins 4 seats in the LS from one or more states

▶ If it wins 2% of seats in LS at a GE (from 3 states)

▶ If it is recognized as a state party in 4 states.

## Criteria for State Party Recognition

▶ If it secures 6% of the VV polled in the state at a GE to the LA+ it wins 2 seats in LA of the state concerned; or

▶ If it wins 3% of seats in the LA at a GE to the LA of the state concerned or 3 seats in the LA, whichever is more; or

▶ If it secures 8% of the total VV polled in the state at a GE to the LS from the state or to the LA of the state.

▶ If it secures 6% of the VV polled in the state at a GE to the LS from the state concerned+ it wins 1 seat in the LS from the state concerned; or

▶ If it wins 1 seat in the LS for every 25 seats or any fraction thereof allotted to the state at a GE to the LS from the state concerned; or



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## Note

- Under **Paragraph 16A of the Symbols order, 1968**, the ECI has the power to **suspend or withdraw recognition of a recognised political party** for its failure to observe MCC or follow lawful directions of the Commission.

## What does the Deregistration of the Political Party Mean?

- **About:**
  - Deregistration refers to the cancellation of the registration of a political party.
    - However, the ECI is not empowered to de-register parties.
  - Once a political party is deregistered, it cannot contest elections.
- **Registered Parties:**
  - **Section 29A** of the [Representation of the People Act, 1951 \(RP Act\)](#) lays down the requirements for registration of a political party with the ECI.
  - Any political party that seeks registration should submit a copy of its constitution.
    - Such document should declare that the party shall **bear true faith** and allegiance to the Constitution of India.
    - It should also bear allegiance to the **principles of socialism, [secularism](#), and democracy**, and uphold the sovereignty, unity and integrity of India.
  - **Registered political parties enjoy the following legal benefits:**
    - Tax exemption for donations received under Section 13A of the [Income Tax Act, 1961](#).
    - **Common symbol** for contesting general elections to the Lok Sabha/State Assemblies
    - **Twenty 'star campaigners'** during the election campaign.
  - As per the ECI, there are **2,790 active registered political parties in India**.
- **Grounds for Deregistration of a Political Party:**
  - A party can only be de-registered if:
    - Its registration was obtained by fraud
    - It is declared illegal by the Central Government
    - A party revises its internal Constitution and refuses to comply with the Indian Constitution.
- **Power of ECI:** The **RP Act does not give the ECI the authority to deregister** a political party for not contesting elections, holding inner-party elections, or submitting required returns.
  - The [Supreme Court](#) in the *Indian National Congress vs the Institute of Social Welfare, 2002*, held that the ECI does not have the power to **de-register any political party under the RP Act**.

## What is the Need of Deregistration of Political Parties?

- **Less than one-third of Registered Unrecognized Political Parties (RUPPs) participate in elections.**
  - It raises concerns over the **possible misuse of income tax exemption** and donations collected being used for money laundering.
- Recognized political parties often **breach the MCC, but the ECI can only bar leaders from campaigning for a brief period.**
  - The MCC prohibits exploiting caste and communal sentiments for votes, as well as voter bribery and intimidation.
- Deregistration mechanisms ensure **electoral integrity** and accountability by **removing inactive entities, thus enhancing transparency** and fairness.
- The proliferation of **registered but inactive political parties undermines democracy** by diluting the electoral process, **lacking genuine participation**.

## Way Forward

- The ECI in its **memorandum for [electoral reforms \(2016\)](#)** has suggested an amendment to the law that **would empower the ECI to deregister a party**.
- The [Law Commission](#) in its **255<sup>th</sup> report (2015) on 'Electoral reforms'** has also recommended amendments for **de-registration of a political party if it fails to contest elections for 10 consecutive years**.
- In **2016, the commission** initiated an effort to **identify registered, unrecognized political parties** that hadn't fielded candidates from 2005 to 2015, aiming to discourage the formation of paper political parties solely for tax exemption benefits.
  - Similar **exercise can be carried out on regular basis** to weed out the inactive parties.
- Former chief election commissioner **T.S. Krishnamurthy** proposed the **National Electoral Fund**

as a **potential alternative to state funding**, allowing contributions from all donors and distributing **funds to parties based on election results to discourage inactive political parties**.

- The **170th Law Commission report** recommended introduction of **Section 78A in the RPA** and proposed penalties for political parties defaulting in the maintenance of accounts.
  - In continuance of the same and for **greater transparency ECI must be given the power to audit the accounts of the political parties**.

**Drishti Mains Question:**

Q. Critically analyse the challenges faced by the Election Commission in regulating political parties' conduct during elections and suggest reforms to enhance its efficacy in maintaining electoral integrity.

**UPSC Civil Services Examination, Previous Year Question (PYQ)**

**Mains**

Q. There is a need for simplification of procedure for disqualification of persons found guilty of corrupt practices under the Representation of Peoples Act". Comment **(2020)**

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