



Annulment of Member of Parliament

For Prelims: [MP, RP \(Representation of the People\) Act, 1951](#), Rule 4A of Conduct of Election Rules, 1961, Corrupt Practices under the RPA.

For Mains: Annulment of Member of Parliament.

Why in News?

The Madras High Court declared the election of a [Member of Parliament \(MP\)](#) from the Theni Parliamentary constituency in 2019 as null and void.

- The court, however, kept the order in abeyance for a month to enable appeal against the order.

What is the Background?

- **Allegations:**
 - The petitioner alleged that he failed to disclose his true assets and liabilities in **Form 26 of his election affidavit**, which is filed under **Rule 4A of Conduct of Election Rules, 1961**.
 - Additionally, it was claimed that he resorted to corrupt practices, including the distribution of cash in exchange for votes, violating section 123 of the [RP \(Representation of the People\) Act, 1951](#).
- **Court's Observation:**
 - The High Court found that the returning officer responsible for scrutinizing the nominations did not adhere to **Section 36 of the RP Act** and the instructions outlined in the Handbook.

What is the Conduct of Elections Rules, 1961?

- **About:**
 - The Conduct of Elections Rules, 1961 is a set of rules established under the **Representation of the People Act, 1951** in India. These rules govern the conduct of elections in the country and provide guidelines and procedures to be followed by candidates, political parties, election officials, and voters.
 - The rules cover various aspects of the electoral process, including the filing of nomination papers, scrutiny of nominations, election campaign regulations, polling procedures, counting of votes, and election dispute resolution.
- **Rule 4A:**
 - Candidates, while submitting their nomination papers to the returning officer, are **required to include an affidavit (Form 26)** to provide a legal statement regarding the candidate's assets and liabilities.

What are 'Corrupt Practices' under the RPA, 1951?

- **Section 123 of the Act:**
 - It defines 'corrupt practices' to include bribery, undue influence, **false information, and promotion or attempted promotion** of "feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language" by a candidate for the furtherance of his prospects in the election.
- **Section 123 (2):**
 - It deals with '**undue influence**' which it defines as "**any direct or indirect interference** or attempt to interfere on the part of the candidate or his agent, or of any other person, with the consent of the candidate or his election agent, with the free exercise of any electoral right."
 - This could also include threats of injury, social ostracism and expulsion from any caste or community.
- **Section 123 (4):**
 - It extends the ambit of "**corrupt practices**" to the **intentional publication** of false statements which can prejudice the outcome of the candidate's election.
 - Under the provisions of the **Act, an elected representative can be disqualified if convicted** of certain offences; on grounds of corrupt practices; for failing to declare election expenses; and for interests in government contracts or works.

What are the Other Provisions of Disqualification of MP under RPA, 1951?

- He must not have been **convicted for any offence resulting in Imprisonment for two or more years**. But the detention of a person under a preventive detention law is not a disqualification.
- He must not have any **interest in government contracts, work or services**.
- He must not be a **director or managing agent nor hold an office** of profit in a corporation in which the government has **at least 25 % share**.
- He must not have been **dismissed from government service for corruption** or disloyalty to the State.
- He must not have been **convicted for promoting enmity between different groups** or for the offence of bribery.
- He must not have been punished for **preaching and practising social crimes** such as untouchability, **Dowry** and sati.

What are the Judicial Observations related to Corrupt Practices in the Past?

- **Abhiram Singh v C.D. Commachen Case (2017):**
 - The SC held that an **election will be annulled if votes are sought in the name of a candidate's religion**, race, caste, community, or language, as per Section 123 (3) of the RPA1951 which prohibits the same.
- **SR Bommai v. Union of India (1994):**
 - The SC ruled that the **encroachment of religion into secular activities** is strictly prohibited, citing **subsection (3) of Section 123** of the RPA, 1951.
- **S. Subramaniam Balaji vs State of Tamil Nadu (2022):**
 - The SC held that promises of **freebies cannot be termed a corrupt practice**.
 - However, the matter is still yet to be decided.

What is the Representation of the People Act 1951?

- **Provisions:**
 - It regulates the conduct of elections.
 - It specifies the **qualifications and disqualifications for membership** of the houses,
 - It provides provisions to curb corrupt practices and other offences.
 - It lays down the procedure for settling doubts and disputes arising out of elections.
- **Significance:**
 - The act is significant for the **smooth functioning of the Indian democracy** as it bars the entry of persons with criminal background into representative bodies, thus decriminalizing Indian politics.

- The act requires **every candidate to declare his assets and liabilities**, and maintain an account of election expenses. This provision ensures the accountability and transparency of the candidate in the use of public funds or misuse of power for personal benefits.
- It **prohibits corrupt practices** like booth capturing, bribery or promoting enmity, etc., which ensures the legitimacy and free & fair conduct of elections which is essential for the success of any democratic setup.
- The act provides that only those political parties which are registered under **section 29A of the RPA Act, 1951** are eligible to receive electoral bonds, thus providing a mechanism to track the source of political funding and ensuring transparency in electoral funding.

UPSC Civil Services, Previous Year Questions (PYQ)

Prelims

Q.1 Consider the following statements: (2021)

1. In India, there is no law restricting the candidates from contesting in one Lok Sabha election from three constituencies.
2. In the 1991 Lok Sabha Election, Shri Devi Lal contested from three Lok Sabha constituencies.
3. As per the existing rules, if a candidate contests in one Lok Sabha election from many constituencies, his/her party should bear the cost of bye-elections to the constituencies vacated by him/her winning in all the constituencies.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) 1 and 3
- (d) 2 and 3

Ans:(b)

Exp:

- In 1996, the Representation of the People Act, 1951 was amended to restrict from 'three' to 'two' the number of seats one candidate could contest in Lok Sabha and Assembly elections. Hence, statement 1 is not correct.
- In 1991, Shri Devi Lal contested three Lok Sabha seats, Sikar, Rohtak and Ferozepur seats. Hence, statement 2 is correct.
- Whenever a candidate contests from more than one seat and wins more than one, the candidate has to retain only one, forcing bypolls in the rest. It results
- in an unavoidable financial burden on the public exchequer, government manpower and other resources for holding by-election against the resultant vacancy. **Hence, statement 3 is not correct.**
- **Therefore, option (b) is the correct answer.**

Mains

Q. Discuss the procedures to decide the disputes arising out of the election of a Member of the Parliament or State Legislature under The Representation of the People Act, 1951. What are the grounds on which the election of any returned candidate may be declared void? What remedy is available to the aggrieved party against the decision? Refer to the case laws. (2022)

[Source: TOI](#)

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