



Treat One-Sided Laudatory News Reports as Paid News: EC to SC

Laudatory news articles by which a political leader appeals for votes in his favour by boasting his record and achievements should be treated as paid news, the Election Commission (EC) has told the Supreme Court.

- The Election Commission told Supreme Court that politicians **cannot say** that it is part of their **fundamental right to free speech** to propagate their “motivated propaganda”.

Election Commission's Arguments

- It asked the court to declare whether it amounts to **paid news** if widely circulated daily newspapers cover statements issued by, and in the name of, a candidate that are not only **laudatory of his or her record and achievements** but also are a **direct appeal** to voters by the candidate.
- Any news is expected to be **unbiased** and characterised by **dispassionate coverage** and **proportionate space to other contenders**.
- If such motivated propaganda is allowed in the **garb of free speech** during the election period, candidates with a strong network of connections will have the unequal advantage of encashing such silent services.
- It declared such relationships between candidates and publications an **unholy alliance**.

Background

- The EC has challenged the Delhi High Court verdict quashing the EC's decision to disqualify Madhya Pradesh Minister Narottam Mishra for three years on charges of paid news.
- The EC, in 2017 disqualified Mr. Mishra for **not filing the accounts for money** spent as election expenses on news items.
- Mr. Mishra's membership was revoked under the provision of **the Representation of the People Act, 1951**, which relates to **providing wrong information** to the Commission on **expenses incurred** during the polls.
- The paid news committee constituted by EC had concluded that news items/ articles were “biased, one-sided and aimed at furthering the prospects. They also fit the existing **definition of paid news** as given by the **Press Council of India**.
 - The Press Council of India (PCI) defines paid news as any news or analysis appearing in print or electronic media for consideration in cash or kind.
- The Division Bench of Delhi HC concluded that the BJP leader was **merely exercising his fundamental right** to freedom of speech and expression.
- It said that EC's sphere **cannot extend to judging content of speech**; it is only to adjudge whether the election expenses incurred by the candidate have been accounted for.
- While, the commission said its powers to **investigate the contents** of such news coverage **should not be thwarted**.

The Issue of Paid News

- Paid news is **not an electoral offence yet**, but there is a case to make it one.

- The EC has recommended to the government that the Representation of the People Act, 1951, be amended to make the publishing, or abetting the publishing, of paid news to further a candidate's prospects or prejudicially affect another's an electoral offence.
- Until this is done, contestants who use paid news can **only be hauled up for failing to include the expenses** involved in their campaign accounts.
- Earlier, an Uttar Pradesh MLA, Umlesh Yadav, was disqualified in 2011 on the same ground, of suppressing expenditure incurred in the publication of paid news.
- In Mr. Mishra's case, the EC has taken the view that even if it were true that he made no payment, he ought to have included an estimated amount in his accounts. Also, candidates cannot simply claim that these reports were not authorised by them. As long as the intention to boost someone's prospects was clear, and there was no objection from the candidate, the EC can rule that there was **'implied authorisation'**.
- Moreover, he must have proof that he distanced himself from such charitable services or news at **the relevant time and not post facto**.
- Mr. Mishra's case pertains to the 2008 election, and by the time the Commission has given its verdict he is into his next term, having been re-elected in 2013. The **enormous delay in adjudicating** such questions is often created by candidates approaching the courts to stall inquiries.
- A legal framework in which electoral issues are **expeditiously adjudicated** must also be put in place if election law is to be enforced in both letter and spirit.

Electoral Reforms

- Apart from making 'paid news' an electoral offence, some of the other electoral reforms **suggested by the EC** are - Decriminalisation of politics, inner party democracy, auditing of parties' accounts, checking use of black money in polls, government-sponsored advertisements and punishment for false affidavit by candidates etc.
- Over the last 25 years, **several panels** have made suggestions to cleanse the poll process and strengthen the EC: Goswami Committee (1990), Vohra Committee (1993), Indrajit Gupta Committee on State Funding of Elections (1998), Law Commission Report on Reform of the Electoral Laws (1999), EC's Proposed Electoral Reforms (2004), Second Administrative Reforms Commission (2008).
- **Supreme Court mandated reforms**- Most of the electoral reforms have happened because of the Supreme Court's interventions. Few Important judgements are:
 - **Union of India (UOI) vs. Association for Democratic Reforms, 2002:** A voter has **right to know candidates' assets**, qualifications liabilities and criminal antecedents, if any.
 - **Ramesh Dalal vs. Union of India, 2005:** A sitting Member of Parliament (MP) or Member of State Legislature (MLA) shall also be subject to disqualification from contesting elections if he is convicted and sentenced to **not less than 2 years** of imprisonment by a court of law.
 - **Lily Thomas vs. Union of India, 2013:** An MP/MLA convicted of any offence attracting a punishment of **two years or above** will be disqualified immediately. SC declared **unconstitutional Section 8(4)** that allowed a convicted MP/ MLA to continue if he/she appealed within three months.
 - **JULY, 2013: Freebies** promised by political parties in poll manifestos undermines **the electoral process**. SC asks EC to frame guidelines.
 - **People's Union for Civil Liberties vs. Union of India, 2013:** SC gives voters none of the above (**NOTA**) option in **Electronic Voting Machine (EVMs)**.
 - **MARCH, 2014:** SC sets **one year deadline for lower courts** to complete trial in cases involving MPs and MLAs.
 - **FEB, 2015:** A candidate's election can be declared **"null and void"** for not disclosing **criminal antecedents**.
 - **JAN, 2017:** SC rules that if votes are sought in the name of religion, race, caste, community or language it would amount to **corrupt practice** — a ground to set aside elections.

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