

EC SHOULD ACT WITHIN THE LAW: SUPREME COURT

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The Supreme Court on Tuesday criticised the Election Commission of India for introducing NOTA in Rajya Sabha elections. The poll body should act within the law, it said.

A three-judge Bench, led by Chief Justice of India Dipak Misra, which scrapped the use of NOTA (none of the above) option for Rajya Sabha elections, said the Election Commission could not act against the court's judgment in PUCL, which introduced the idea of NOTA, and could not "conceive concepts or ideas" antithetical to the purity of elections.

The court observed that while NOTA option looks attractive in Rajya Sabha polls, it actually harms an electoral process where open ballot is permissible and party discipline reigns. More so, where the elector's vote has value and the value of the vote is transferable.

"NOTA will destroy the concept of value of a vote and representation and encourage defection that shall open the doors for corruption which is a malignant disorder," the court said.

The Bench had reserved for judgement the petition filed in 2017 by Gujarat Congress whip Shailesh Manubhai Parmar to do away with the option in Rajya Sabha elections. The petition was filed in connection with the Rajya Sabha elections in which Congress leader Ahmed Patel was contesting.

Chief Justice Misra had earlier indicated that the court may indeed rule against the circulars issued by the Election Commission of India in August 2017 and November 2015. The petitioner had argued that the Election Commission cannot sanction the use of NOTA in Rajya Sabha elections by way of mere circulars, which have the effect of overriding the provisions of Article 80(4) — proportional representation by means of the single transferable vote, the provisions of Representation of People Act 1951 and the Conduct of Election Rules 1961.

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