

SC SUGGESTS WAY TO CLEANSE POLITICAL PARTIES

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The suggestion was made by the Bench in a bid to prevent criminals from entering politics or later contesting elections to become parliamentarians, legislators and Ministers.

The court is hearing a batch of petitions to ban persons charged with heinous criminal charges from contesting elections.

The suggestion from the Bench faced stiff opposition from the government. Attorney-General K.K. Venugopal said the court's proposal amounted to disqualifying a prospective candidate.

"A political party has a right to field its candidate. Mere charges of having committed a crime cannot be used to prevent a person from contesting elections... your suggestion amounts to prematurely disqualifying a candidate. Besides, the court is taking on itself a matter of the legislature," Mr. Venugopal submitted.

The Bench has been steadfast during the past days that it cannot legislate and change the written law. Thus, it was as an alternative measure that the Bench suggested: making the political party accountable for giving memberships to persons with a criminal record.

"We will only say that you (political party) incorporate a clause in your membership form requiring a member to file an affidavit disclosing his criminal antecedents. Then you will publish it. If not, you face de-registration by the Election Commission," Chief Justice Misra explained.

The Bench, including Justices D.Y. Chandrachud, A.M. Khanwilkar and Indu Malhotra, based its proposal on the power of the Election Commission to conduct an election and register/de-register political parties under Article 324 of the Constitution and Section 29A of the Representation of the People Act of 1951, respectively. The court invoked The Election Symbols (Reservation and Allotment) Order of 1968. Chief Justice Misra pointed to how Section 29A requires a party to swear to uphold the principles of socialism, secularism, democracy, sovereignty, unity and integrity of India.

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