

SOP OR WELFARE DEBATE: THE HINDU EDITORIAL ON FREEBIES

Relevant for: Indian Polity | Topic: Elections, Election Commission and the Electoral Reforms in India Incl. Political Parties

A [general concern over 'freebies' pushing the economy to ruin](#) or unviable pre-election promises adversely affecting informed decision-making by voters seems reasonable. However, few will disagree that [what constitutes 'freebies' and what are legitimate welfare measures to protect the vulnerable sections](#) are essentially political questions for which a court of law may have no answer. In this backdrop, the [Supreme Court's decision to form a body of stakeholders to examine the issue](#) raises the question whether the legislature can be bypassed on such a far-reaching exercise. The Chief Justice of India, N.V. Ramana, heading a Bench hearing a petition filed in public interest against the distribution or promise of 'freebies' ahead of elections, has made it clear that the Court is not going to issue guidelines, but only ensure that suggestions are taken from stakeholders such as the NITI Aayog, Finance Commission, Law Commission, RBI and political parties. All these institutions, he has said, can submit a report to the Election Commission of India (ECI) and Government. A suggestion that Parliament could discuss this issue was met with scepticism by the Bench, which felt that no party would want a debate on this, as all of them support such sops. The Bench also disfavoured the ECI preparing a 'model manifesto' as it would be an empty formality. The Court's concern over populist measures seems to resonate with the Government too, as the Solicitor-General submitted that these distorted the voter's informed decision-making; and that unregulated populism may lead to an economic disaster.

The Supreme Court, in *S. Subramaniam Balaji vs Government of Tamil Nadu (2013)* addressed these questions and took the position that these concerned law and policy. Further, it upheld the distribution of television sets or consumer goods on the ground that schemes targeted at women, farmers and the poorer sections were in furtherance of Directive Principles; and as long as public funds were spent based on appropriations cleared by the legislature, they could neither be declared illegal, nor the promise of such items be termed a 'corrupt practice'. It had, however, directed the ECI to frame guidelines to regulate the content of manifestos. The ECI subsequently included in its Model Code of Conduct a stipulation that parties should avoid promises "that vitiate the purity of the election process or exert undue influence on the voters". It added that only promises which were possible to be fulfilled should be made and that manifestos should contain the rationale for a promised welfare measure and indicate the means of funding it. Any further step, such as distinguishing welfare measures from populist sops and pre-election inducements, or adding to the obligations of fiscal responsibility and fiscal prudence ought to come from the legislature. That politicians invariably back 'freebies' should be no reason to bypass Parliament.

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