

CHOICE AND CANDIDACY: THE HINDU EDITORIAL ON SUPREME COURT ORDERING POLITICAL PARTIES TO PUBLISH CRIMINAL RECORDS OF CANDIDATES

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

The idea of removing the taint of criminality from electoral politics has been engaging the country for decades. Yet, whatever progress made in this regard has been through the [initiative of the Supreme Court](#) and [the Election Commission](#). Political parties which ought to be cleansing the system with legislation and internal organisational reforms have done precious little, and their reluctance to avoid fielding those with criminal antecedents is quite obvious. The Court, in September 2018, sought to enforce greater disclosure norms about electoral candidates. On noting the “alarming increase” of those with a criminal background in the last four general elections, the top court has now come up with an additional requirement while hearing a contempt of court petition. Now, parties have been asked to explain candidate choice and why those with criminal cases pending against them were preferred over those with no such record. The Court has asked national and regional parties to disclose the reason for their selection “with reference to qualifications, achievements and merit of the candidates concerned”, and barred them from merely citing “winnability” as a reason. In addition to full disclosure of the cases pending against them on their official websites and social media accounts, the parties are also required to publish these details in a local regional language paper and a national newspaper. This is a forward movement from the present situation in which the burden of disclosure is on candidates through mandatory affidavits filed along with their nomination papers.

43% newly-elected Lok Sabha MPs have criminal record: ADR

The [latest order](#) is in line with a series of judgments aimed at preserving the purity of the election process: directions to ensure the asset disclosure and criminal records of candidates, the incorporation of the ‘none of the above’ option in the voting machine, and the invalidation of a clause that protected sitting legislators from immediate disqualification after conviction. In addition, the Court has directed the establishment of special courts in all States for the quick disposal of cases involving elected representatives. However, it must be underscored that de-criminalisation of politics cannot be achieved by judicial fiat alone. The political class has to respond to the challenge. Parties would probably justify their choice of candidates by pointing out that the law now bars only those convicted and not those facing charges, however serious they may be. Besides, they are apt to dismiss all pending cases as “politically motivated”. A legislative option is to amend the law to bar from contest those against whom charges have been framed. A more meaningful option would be for parties to refrain from giving ticket to such candidates. Beyond this debate, a larger question looms: what good will more information on the background of candidates do, if voters back a particular leader or party without reference to the record of the candidates fielded?

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