

The lowdown on the fight against criminal MPs

The Supreme Court has asked the Centre to come up with a scheme to establish special courts to try politicians facing criminal cases. The government itself was not averse to the idea. It will now have to spell out within six weeks the funds that it is ready to earmark for setting up these courts throughout the country. Thereafter, the court intends to address the issue of appointing judicial officers, prosecutors, and other manpower and infrastructure requirements. The court has indicated that it will interact with representatives of the States too, as it is the State governments that will be prosecuting most of these cases. In addition, the court has sought details of the status of 1,581 cases involving candidates who had disclosed details of pending criminal proceedings against them while filing their nominations for the 2014 elections. As per a March 2014 Supreme Court order, cases against politicians ought to have been disposed of within one year. In addition, it has sought details of fresh cases filed since then and the status of their disposal.

The matter came to court, thanks to a petition filed in public interest by Ashwini Kumar Upadhyay, an advocate who says he has been active in anti-corruption movements. He is also a spokesman for the Delhi unit of the Bharatiya Janata Party. Last year, he moved the Supreme Court for a direction to the Centre to come out with steps to debar all convicted persons from electoral politics for life. Under the present law, a convicted person is disqualified for contesting elections for six years from the date of release from prison. The petition also demands that special courts be set up to decide criminal cases related to those in the legislature, the executive and the judiciary within one year. He has submitted that 34% of the Members of Parliament have criminal cases pending against them and the government is doing nothing to decriminalise the polity. He has cited various reports of the Law Commission and other documents relating to electoral reforms and criminalisation of politics to back his claims.

Criminalisation of politics is an issue that worries independent institutions such as the Supreme Court and the Election Commission more than the political parties in the country. The perception that the political class manages to wriggle out of serious criminal cases because of a protracted and repeatedly postponed trial adds to the problem. While the law's delays are quite well-known, it is obvious that such delays have a beneficial effect on influential accused, who invariably face the case while being free on bail. In most cases, delayed trials result in poor accused languishing in jail for long. Further, it is seen that many political leaders facing criminal proceedings continue to engage in routine political activity, fighting elections or even holding public office. It is not often that some of them quit office in the interest of a fair trial.

As the Supreme Court has already fixed a one-year deadline from the date of framing of charges for completion of trials involving Members of Parliament and Assemblies in an order passed in 2014, the court can be expected to take a tough stand on delayed trials against politicians. The establishment of special courts will be subject to the availability of funds, especially from the States. Some individuals affected by the order may some day question the validity of subjecting to them to proceedings in special courts rather than the regular courts of jurisdiction. The Criminal Procedure Code provides for a speedy trial. Under Section 309, once the examination of witnesses begins, the court should hold day-to-day hearings until all listed witnesses are examined. However, this provision is hardly adhered to. Merely complying with this may significantly expedite cases involving politicians. It is possible that the current proceedings may lead to some legal changes aimed at decriminalising politics. While the Election Commission has taken the stand that it may support the plea for debarring convicted persons from electoral contest for life, the Centre will have to make up its mind on whether it would endorse such a drastic measure.

END

Downloaded from crackIAS.com

© **Zuccess App** by crackIAS.com

crackIAS.com