

MAKING POLITICAL PARTIES ACCOUNTABLE

Relevant for: Developmental Issues | Topic: Important Aspects of Governance, Transparency & Accountability including Right to Information and Citizen Charter

Recently, the Supreme Court in *D.A.V. College Trust and Management Society Vs. Director of Public Instructions* held that non-governmental organisations which were substantially financed by the appropriate government fall within the ambit of 'public authority' under Section 2(h) of the Right to Information Act, 2005. Under this section of the RTI Act, 'public authority' means "any authority or body or institution of self-government established or constituted by or under the Constitution and included... any non-government organisation substantially financed directly or indirectly by funds provided by the appropriate government."

Owing to the reasoning given by the court, the judgment can potentially have wide ramifications in the discourse pertaining to the ambit of the RTI regime on national political parties.

In *D.A.V.*, the top court held that 'substantial' means a large portion which can be both, direct or indirect. It need not be a major portion or more than 50% as no straitjacket formula can be resorted to in this regard. For instance, if land in a city is given free of cost or at a heavily subsidised rate to hospitals, educational institutions or other bodies, it can qualify as substantial financing. The court resorted to 'purposive' interpretation of the provisions by underscoring the need to focus on the larger objective of percolation of benefits of the statute to the masses.

In 2010, the Association for Democratic Reforms (ADR) filed an application under the RTI to all national parties, seeking information about the "10 maximum voluntary contributions" received by them in the past five years. None of the national political parties volunteered to disclose the information. Consequently, ADR and RTI activist Subhash Agarwal filed a petition with the Central Information Commission (CIC).

In 2013, a full bench of the CIC delivered a historic judgment by declaring that all national parties came under 'public authorities' and were within the purview of the RTI Act. Accordingly, they were directed to designate central public information officers (CPIOs) and the appellate authorities at their headquarters within six weeks.

In 2013, The Right to Information (Amendment) Bill was introduced in Parliament to keep political parties explicitly outside the purview of RTI that lapsed after the dissolution of the 15th Lok Sabha. Notwithstanding the binding value of the CIC's order under Section 19(7) of the Act, none of the six political parties complied with it. Quite interestingly, all the parties were absent from the hearing when the commission issued show-cause notices for non-compliance at the hearing.

Finally, in 2019, a PIL was filed in the Supreme Court seeking a declaration of political parties as 'public authority' and the matter is sub judice. Irrespective of the ideological differences among these political parties on almost all the issues under the sun, non-compliance of the RTI mandate has been a great unifier.

Drawing an analogy between the Supreme Court's judgment on *D.A.V.* and the political parties' issue which is sub judice, it can be argued that national parties are 'substantially' financed by the Central government. The various concessions, such as allocation of land, accommodation, bungalows in the national and State capitals, tax exemption against income under Section 13A of the Income Tax Act, free air time on television and radio, etc. can easily satisfy the prerequisite of Section 2(h) of the RTI. If an entity gets substantial finance from the government,

there is no reason why any citizen cannot ask for information to find out whether his/her money which has been given to the entity is being used for the requisite purpose or not.

Applying the purposive rule of interpretation which is discernible from the preamble of the RTI Act, the ultimate aim is the creation of an 'informed' citizenry, containment of corruption and holding of government and its instrumentalities accountable to the governed. Under the anti-defection law, political parties can recommend disqualification of Members of the House in certain eventualities under the Tenth Schedule of the Constitution.

The Law Commission opines that political parties are the lifeblood of our entire constitutional system. Political parties act as a conduit through which interests and issues of the people get represented in Parliament. Since elections are predominantly contested on party lines in our parliamentary democratic polity, the agenda of the potential government is set by them.

As noted by Dr. B.R. Ambedkar in his famous Constituent Assembly speech, "The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State...The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics." It is hoped that the top court will further the positive advances made in this direction. Since sunlight acts as the best disinfectant and our political parties tirelessly claim themselves to be apostles of honesty and integrity, it is expected that they would walk the talk.

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