

NO SPECIFIC LAW AGAINST HATE SPEECH: EC

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

The Election Commission of India (ECI) in the Supreme Court has said that due to the lack of a specific law against hate speech and rumour mongering during polls, it has to resort to the Indian Penal Code (IPC) and the Representation of People (RP) Act to ensure that members of political parties do not make statements which can create disharmony among sections of society.

“In the absence of any specific law governing hate speech and rumour mongering during elections, the Election Commission of India employs various provisions of the IPC and the RP Act, 1951 to ensure that members of political parties or even other persons do not make statements to the effect of creating disharmony between different sections of society,” the poll body said in an affidavit.

The ECI said the Law Commission of India, in its 267th Report, had not made any recommendations with regard to a specific query [from the Supreme Court] on whether the ECI ought to be conferred with the power to derecognise a political party for committing the “offence of hate speech”.

No curbing action

Neither did the Law Commission make any recommendations to Parliament to strengthen the Election Commission to curb the “menace of hate speeches, irrespective of whenever made”.

The poll body said hate speeches were “often interconnected with appeals to religion, caste, community, etc, during election campaigning.

It referred to several Supreme Court judgments, among them the Abhiram Singh case, which had held that “any appeal to vote or refrain from voting for a candidate on the grounds of religion, caste, race, community or language by a candidate or his agent to the electors would amount to corrupt practice under the 1951 Act”.

This judgment had been brought to the notice of political parties in January 2017. The parties were told by the ECI to desist from making hate statements. Hate speech and communal statements by candidates or their agents could be raised in election petitions.

Though the Model Code of Conduct had no “legal sanctity”, the ECI said it had introduced guidelines in the Code asking parties to desist from making communal statements.

In case any complaints were made, the ECI said it took “strict note” of it.

The ECI was responding to a plea by lawyer Ashwini Upadhyay seeking directions to the Centre to take apposite steps to implement recommendations of the Law Commission Report 267 on hate speech.

“The injury to the citizens is extremely large because ‘hate speech and rumour-mongering’ has the potential of provoking individuals or society to commit acts of terrorism, genocides, ethnic cleansing, etc. Hate speech is considered outside the realm of protective discourse,” Mr. Upadhyay’s petition said.

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