

ELECTIONOMICS



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VIVEK NARAYAN SHARMA



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*For my loving wife Shilpa,
My bright children Advaya and Redit
your love, care and support made this book possible.
To all the Arjunas of India,
who discover and follow the wisdom of Lord Krishna
to achieve the Righteous!*



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**Review of *Electionomics* by
Mr. Justice Dipak Misra**
Former Chief Justice of India

(Excerpts from the speech at the book launch, New Delhi, 30 April 2019)



Chanakya advices, “*Ati*”, i.e. extremes are not acceptable in a civilized society; that’s the mantra, I would state, that Mr. Vivek Narayan Sharma tries to preach.

What he’s trying to communicate to the people is: in a democracy, the citizens are the pyramidion of the pyramid. It is a structure, with the citizens at the prime. Citizens collectively sustain a democracy which has its sacrosanctity. Election in a democracy has to have sacrosanctity and sacredness because it is something equivalent to the accumulation of power.

In the Mahabharata, it’s a war of power; that’s why he tries to correspond to the Mahabharata, a war of territorial power between the two clans Kauravas and Pandavas. Now that is a fight for power through the physical world. Here it is a different kind of fight to come to power. Both are collectively power games.

A king and his commanders. Its supporters and its supporting kings. And, here, the citizens, the voters and the representatives. In this present scenario, the propriety of elections has been suggested. The propriety of conducting elections has been very subtly suggested, and sometimes directly.

Mr. Sharma has a way with words: sometimes he quotes Supreme Court judgments, sometimes he comes to the Election Commission, sometimes he comes to citizens and he refers to George Bernard Shaw and other authors. **It’s a Beautiful Crafting.** He who writes a book knows how difficult it is.

If you read the book, Mr. Sharma is stating something of great importance. I don't know whether he imagined that I would be saying this, but I am conveying to the readers or would-be readers that he has converted Dhritrashtra, it's very interesting, who speaks like a great democrat. He (Dhritrashtra) is wonderful man in this book. He says, "Sanjay all these are happening." Sanjay says, "Yes!" He says, "Did we fight the war of Mahabharata for this?"

This is a poignant question. That means that in the entire Mahabharata, *Dharam-jeet* was not really thought of by Lord Krishna alone. *Dhritrashtra* was a tacit participant knowing very well that his sons were anti-citizens, anti-dharma, and that, therefore, there should be war, and a time would come when people would live a life of *dharma*.

That's what this book tries to convey in a different manner. There was a war so that people would live in peace. There was a war so that people will live in Dharma, and there was a great war so that people will be more civilized believing in Dharma.

And he wants and it does not happen. And if it does not happen, he goes to Krishna. He has no other way. Lord Krishna says, "कर्मण्येवाधिकारस्ते मा फलेषु कदाचन।"

Mr. Sharma says what Krishna told Arjuna. We don't have a Krishna, so what should we do? Arjuna is still suffering from *Vishadyoga* (despair). He is a perpetual, curious, questioning and doubting personality. Mr. Sharma does not like doubting personalities but ultimately says, "No, a doubting person is a good person. A curious person is a good person," because he wants to improve, and that is why he uses the symbol of Arjuna for today's citizens. Now in this kind of metaphorical mythological pilgrimage, the readers will find tremendous interest.

Arjuna was fortunate that he had Krishna as his guide, but, here, as Vivek Narayan Sharma suggests, the present generation does not have a guide. What was the guidance that Lord Krishna gave Arjuna? So many questions have been asked at one stage. Lord Krishna says, when Arjuna asked, "How can I gain knowledge? How can I gain wisdom? How can I learn the Chunav-Shastra? How can I learn Electionomics? How can I learn the voting pattern? How can I learn the power game?"

Lord Krishna says, "Hey Arjuna, you must be in a position to question, you must be curious, and you must do service" (here service has to be understood to be service to the nation). Being curious does not mean being gullible. And questioning means that you must have protagonism after a lot of research. Mr. Sharma does not state this directly. There is no theorization in this book. That's the best part, and I must congratulate him for it. As citizens, you have to think of principles.

Mr. Sharma requests you to understand the philosophy behind *Electionomics* and the contents therein. It's a rising pattern. First, he puts forth his extract of affairs which possibly and conceivably is not a good state, but he is optimistic, through sometimes Sanjay and sometimes Dhritrashtra. It's because there have been progressive judgments by the Apex Court with regard to election reforms, and sometimes steps have been taken by Election Commission. I congratulate Mr. Sharma for writing such a book.

Gulliver's Travels is a glorious satire on war. Similarly, there is a film, *Goopy Gyne Bagha Byne*, by Satyajit Ray; it, too, is a great satire on war. *Electionomics* is a great satire on elections. My congratulations to Mr. Vivek Narayan Sharma for his "innovative thinking," and I say this as a student of Literature & Law and Law & Literature.





DR JUSTICE D Y CHANDRACHUD
Judge, Supreme Court of India

29 April 2019

Message

Electionomics by Vivek Narayan Sharma is a recent edition to the literature on the law relating to elections. In eighteen chapters, the text explores the intricacies of the law on the subject. The author has utilized the allegory of mythology in describing events associated with the history of elections. Interestingly, the author has attempted to relate events of the past with the structure of electoral jurisprudence, as he attempts to weave a pattern. The book summarises leading judgments on election law.

Vivek Narayan Sharma has written on diverse aspects of law and society. His latest venture should rekindle the debate on electoral reform. The effort of the author in researching for this work deserves to be complimented. The book should be an interesting read for those who seek an understanding of the role of elections in the democratic fabric of the nation.

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AUTHOR'S NOTE

Electionomics is a surprise write up by me as there wasn't even the hint of brewing it at the beginning of 2019. One fine evening of December, 2018, the email of the publisher showed up in my inbox as I finished emailing my article for *Times of India* (TOI). The email brought tantalizing breeze of excitement since the publisher had expressed their interest in me writing a book for them. There was a slight incongruity of the category though, they wanted a legal book and I wanted a book to appeal masses. I responded with an open note for one-on-one meeting. The meeting was fixed promptly. The discussion went at the drop of a hat steering the Book Proposal. My inner voice made me propose a book providing humor, law, actual ground situation and corrective steps, i.e. a coffee table yet an authentic informative compilation. The subsequent weeks played peek-a-boo with the resolute of penning down *Electionomics* as the final contract wasn't signed. It was not until the second week of February 2019, when I received the final agreement and began flourishing the genesis of *Electionomics*. And I had only four weeks, to do it all.

This was only the hand of God that provided me the right kind of environment along with the cooperative, captivating, passionate, experienced, interested and collaborative team to do this mammoth task.

My team and I committed prolonged work hours, discussions, deliberations, skipping of personal works and exercise routines. My day extended heavily, from the morning court routine to the delivery of speeches, lectures and judging moot courts to the desk work in front of laptop till around 2–3 a.m. The lack of rest and sleep not only severely stiffed my back, but also escalated my blood pressure and provided me with shots of anxiety.

Fortunately, me and my wife Shilpa are tuned and synchronized in thoughts and determination. She worked as my charioteer in writing this book. We used to discuss during nights and sometimes till 3 a.m. to device the most effective way in completing the book within the specified timeline. In the four-tier system created by me for completing this book in record time, she played the most relevant role. She coordinated with my team during the day, gathered statistics, data and collaborated everything and passed it to me at the end of the day. This gave immense speed to my book writing, I could write seamlessly till wee hours focusing on ornamenting the wisdom of Lord Krishna around the lowly realities of our Kalyugi World. It was an exhilarating experience for me to bind the spiritualism with the legal knick-knacks of today's world.

The most heartfelt of all would be the roles of my two sons Advaya & Ridit. The eleven-year-old Advaya's Class-VI exams were around the corner, when Shilpa and I got too much busy with the book, on my request, fond of preparing with his mom, Advaya prepared himself for the exams. Ridit, who is only five years of age, is very much fond of the company of his mummy. And yet, on my request, he allowed me to take his mummy for my help and played with self and his caretaker *didi*, who he wouldn't like. I am really at loss of words to express my feeling over their significant cooperation. I feel like a criminal for doing this and yet this contribution from both Advaya and Ridit is incomparable.

Each member of my book project team has done tremendous work and brain storming with me as I am a never satisfied type, unless the work is well refined, up-to-mark and to my satisfaction level. So they all had to re-do their works several times, work till late almost every day. While each member of my team provided great contribution, the best thing to share is that during evening snacks time, we all used to destress for an hour or so by gossiping and chit-chatting on vague and unrelated (sometimes related) topics, throwing humors at each other, laughing and bantering at each other's political inclinations. I am profoundly grateful to Pragyan Utsav Mishra, Mohika Jain, Kshitij Ray, Mohammed Zaheb Hussain, Pooja Shah, Palak Jain, Aparna Sen, Amit Raj, Charanjeet Kaur Sodhi, Nitish Choudhary, Somesh Pandey, Shubham Awasthi, Aakash Sharma, Sarthak Tiwari, Sajal Jain, Aditya Kumar Jha, Prateek Sharma, Daksh Kayastha, Diksha Singh, Rajeev Kumar Jha, Ajay Singh, Ajeyo Sharma, Shoaib Haider, Parag Agarwal and my assistant Pramod Mukhiya and other support staff for their continued coordination and support. Pragyan specifically played different hats of a political analyzer, legal researcher and even a photographer.

While revising, the work stumped me as well. The importance of cohesive knowledge on the electioneering process in India is immense and the same was missing prior to *Electionomics*. This prompted me to weave a beautiful storyline with ground situations, legal and constitutional provisions and judgments. The necessity of change in electioneering process and law is not only constant but a deep need as the democratic process of elections is the key of providing the fuel for running the country. I credit all the Arjunas of the nation who worked for betterment of nation to cure the system.

My childhood learning of mythological accounts and teachings received from my father Pandit Ram Gopal Sharma and my late mother Smt. Rajeshwari Sharma formed my being of righteousness, self-correction, compassion and value creation. The foundation laid by them of holy scriptures and respect for all religions have transpired into my reasoning. I am grateful to my parents for giving me the exposure of regular recitals of Bhagwad Geeta, The Ramayana, Vedas, Puranas and other scriptures. My sweet little sister Mahima was my companion to receive all such teachings, and both of us grew up to be enlightened human beings.

While in college, I once observed 40-days' long *Anushthan* (Solemnization) wherein I would observe fast and restrict myself from having water, food etc. from outside home. I would also put certain additional restrictions on me, like not speaking lie and not bearing anger at all. I worshipped lord Ganesha everyday for 6 hours (mornings and evenings – 3 hours each). On the concluding day during final *Aahuti* (Offering) at the *Hawan*, my father asked me to seek wish from the Lord and I asked, “Hey, Lord Ganesha! I want to serve humanity, so please help me!”

During my college days, I met Shekhar Bhaiya, an English tutor and a holy soul, I was immediately attracted to his simplicity, calm, honor, spirituality and beliefs. We started discussing Swami Vivekananda and I was exposed to chanting, concentration and meditation. And I became so particular that I used to wake up at 3.30 a.m. in the morning and practise meditation under the sky, be it summer or winter. It is my childhood that inspired me to incorporate the *Bhagwad Geeta Shlokas* to explain the complexity of world the way I understand it. I hope the wisdom of Lord Krishna brings the same solace and wisdom to the hearts of the readers as it brings to mine. To conclude, I must share with my readers that the following words of Swami Vivekananda have always remained central to my existence:

“Fill the Brain with High Thoughts & Highest Ideals,
Place them day and night before you
And out of that will come a Great Work!
Talk not about impurity, but say we are Pure!
Fill the mind with it day and night,
I am It, I am the Lord of the Universe,
Never was there any Delusion!”

Vivek Narayan Sharma

March 2019, New Delhi



PREFACE

When the land of snake charmers begins charming the world, the credit goes to its People, its Youth.

O yes, the people of India, the youth of India! They are contributing world-wide. Imagine! Born, lovingly brought up and professionally educated Indian drifts outside the borders and settles as a power fuel particle on the alien machinery and makes it fly. Why not these energy packs find their way in the machinery of their own country and drive it ahead? The answer is complicated and unfortunate! One of the probable answers is that the system of the country would fail them regularly, draining them up until they lose their energy spectrum and become slow and wiggle down to the countries' own complicated machinery. This machinery is so corrupt, messy, inefficient and indescribably humongous that it intimidates the fresh power buds by circumventing their energies, youth, vigor, courage and nationalistic thought process. If at all something could change, to make them stay, it would be the change brought by them, which is resisted by the political process prevalent in the country.

The dilemma of these young Indians with fresh energy, focus, honesty, hard-work, skill and good conscious and conscience makes them the “*Arjuna(s)*” of Indian Mythology. All they wish is a great life proportionately rewarding them for their potential, focus, dedication and outputs. Our system confuses them, and their condition is best described in the following *shloka* of the Bhagavad Gita:

कार्पण्यदोषोपहतस्वभावः
पृच्छामि त्वां धर्मसम्मूढचेताः ।
यच्छ्रेयः स्यान्निश्चितं ब्रूहि तन्मे
शिष्यस्तेऽहं शाधि मां त्वां प्रपन्नम् ॥ 7॥

kārṇanya-doṣhopahata-svabhāvaḥ
prichchhāmi tvāṁ dharma-sammūḍha-chetāḥ
yach-chhreyaḥ syānniśchitaṁ brūhi tanme
śhiṣhyaste ‘haṁ śhādhi māṁ tvāṁ prapannam

—Arjuna to Krishna (Chapter 2, Text 7, Shrimad Bhagavad Gita)

Meaning:

Now I am confused about my duty and have lost all composure because of weakness. In this condition I am asking You to tell me clearly what is best for me. Now I am Your disciple, and a soul surrendered unto You. Please instruct me.

In that era, *Lord Krishna* had sermonized *Arjuna* and opened his eyes and path. Today, the easiest thing for *Arjunas*, in the absence of Krishna's supreme wisdom, is to flee or feel lost.

And so, India loses its precious *Arjunas* to the America, UK, Australia, UAE, Singapore, Canada and other countries. Some go for education and settle, others go for work and settle. For many, discarding ones' own country sometimes becomes needful for reasons beyond comprehension or explanation. One of the evident reason for pushing the skillful *Arjunas* out of country is the educational institutions that have more than half seats reserved for backward classes etc. The education system is onerous, mostly corporatized and money minting for the traders and sellers of education, who believe in quantity and not the quality and are producing large numbers of unskilled engineers, doctors, professionals like lawyers etc., who become burden instead of becoming assets for the system. Quality education in variety of discipline, being a distant norm, remains available to selected few with deep pockets and power curves. Demand for scientists and engineers etc. are fewer than developed countries. Such is the system in India that majority of youths are paralyzed by the use of corrupt means at the beginning of their career and the subsequent race is run merely to achieve money and power.

One may choose to see brain drain as either impactful or non-impactful, the matter of fact is that it's just another present-day scenario with its consequences. As *Arjunas* flee the Nation, the country's glory stays unsung as India always remain short of getting established as World Power. However, the politicians in power would always drum the beat to that effect, but reality always remains far from the political perceptions created during Elections and after coming into power. What they fail to earn in India, the *Arjunas*, however, do earn what they deserve on foreign lands; they become the backbone of Medicine, Aeronautics, Engineering, Literature, Business and what not. All they have to do is to kill their conscious and conscience that their native land suffers the consequence of their absence and voila, it's all greenery with a little cost of racism and second-class citizen treatment here and there.

Alas! Without the wisdom of *Lord Krishna*, most of the *Arjunas* are dysfunctional and lost on their own land today.

Brain drain is only one repercussion of the political machinery that we have. Though a lot has changed for better in the political, electioneering and governance systems in India, many more issues like Poverty, Illiteracy, Education, Unemployment, High Population, Sanitation, Medicine, Naxalism and above all Corruption remain to be resolved due to lack of adequate Political Competence, Morality, Will and Plan. Indian politicians, with their speech eloquence and corrupt morality, provide dreams and perceptions far from intent to achieve. The youth of India is unemployed, unskilled in large proportion and wants to change the system that is repeatedly failing them and advancing their exodus from their mother land.

TABLE 1 SOME NOTABLE INDIANS [NON-RESIDENT INDIANS (NRIS)/ PERSONS OF INDIAN ORIGIN (PIO)] REPRESENTING THE BRAIN DRAIN FROM INDIA: THESE INDIANS NOT ONLY ACCOMPLISHED THEMSELVES BY THEIR WORK BUT ARE ALSO RECOGNIZED AND CHERISHED BY THE GOVERNMENTS ABROAD. SUCH PEOPLE MIGHT NOT HAVE ATTAINED SUCH GREAT HEIGHTS HAD THEY BEEN IN INDIA DUE TO ANTAGONISTIC ENVIRONMENT

Name	Birth Place	Present Place of Stay	Achievements on Foreign Land
Sundar Pichai (12.07.1972)	Madurai, TN	Los Altos, California	<ul style="list-style-type: none"> • CEO, Google • Another achievement of Sundar Pichai was Android. • He was behind the Chrome Operating System • He was the member of the Board of Advisors of Ruba Inc, and had been a director of Jive Software.
Satya Nadella (19.08.1967)	Hyderabad, TS	Clyde Hill; Bellevue, Washington	<ul style="list-style-type: none"> • CEO, Microsoft • Held the position of executive vice president of Microsoft's Cloud and Enterprise group. • Awarded as the Indian of the Year 2014 in the Global Indian section. • Pravasi Bharatiya Samman Award, which was awarded to him on January 9, 2015 in Gandhinagar.
Rajeev Suri (10.10.1967)	New Delhi	Based in London	<ul style="list-style-type: none"> • CEO and President, Nokia • is an Indian-Singaporean business executive. • He was the head of the services, Nokia Siemens Networks 2007–2009.
Shantanu Narayen (27.05.1962)	Hyderabad, TS	Palo Alto, California	<ul style="list-style-type: none"> • CEO, Adobe • He was honored with India's civilian honor Padma Shri in 2019.[8] • On May 2011, Narayen received an honorary doctorate from his alma mater, Bowling Green State University. • In 2018 Narayen was ranked #12 on Fortune's "Businessperson of the Year" list and was also named "Global Indian of the Year" by the Economic Times of India. • He served as a member of Management Advisory Board under Barack Obama. • Received International Imaging Industry Association Leadership in 2010.

TABLE 1 (Cont)

Name	Birth Place	Present Place of Stay	Achievements on Foreign Land
Sanjay Jha (1963)	Sultanganj, Bihar	San Diego, USA	<ul style="list-style-type: none"> • CEO, GlobalFoundries • Former chairman and chief executive officer of Motorola Mobility. • Prior to that he was the chief operating officer of Qualcomm. • Sanjay Jha of PBS Nightly Business Report has won the Loeb Award for the series ‘India’s Promise’ in the Television Daily category. Jha is the first Indian to win the Loeb Award.
George Kurian (49yrs)	Kottayam district, Kerala	Based in California	<ul style="list-style-type: none"> • CEO and President, NetApp • He was vice president and general manager of the Application Networking and Switching Technology Group at Cisco Systems • Vice president at Akamai Technologies
Francisco D’Souza (23.08.1968)	Nairobi, Kenya	Based in USA	<ul style="list-style-type: none"> • CEO, Cognizant • He is a member of the World Economic Forum and the 2019 Chairman of the World Economic Forum’s IT Governors Steering Committee. He sits on the Board of Directors of The National Medal of Honor Museum. • 2005 – The Economic Times Entrepreneur Award • 2009 - named among “America’s Best CEOs” by Institutional Investor magazine • 2013 - named among “100 CEO Leaders in STEM” by STEMconnector • 2013 - Recognized as the Best CEO, Forbes India • 2014 - “Newsmaker of the Year” by The Financial Express • 2017 - #10 on Fortune Businessperson of the Year
Dinesh Paliwal (17.12.1957)	Agra, UP	US Citizenship but a globe trotter.	<ul style="list-style-type: none"> • CEO and President, Harman International • Served as a member of the board of Bristol-Myers Squibb and Raytheon Company • He has served previously as Chairman of the National Foreign Trade Council, ABB India Ltd., Lummus Global (an oil and gas technology company) • Also as a Director for the US China Business Council, and International Swimming Hall of Fame.

TABLE 1 (Cont)

Name	Birth Place	Present Place of Stay	Achievements on Foreign Land
Ashok Vemuri (22.04.1968)	New Delhi	New Jersey, USA	<ul style="list-style-type: none"> • He also served for three years as Economic Advisor to the Governor of Guangdong Province, China. • 2010- Paliwal was named Metro New York Entrepreneur of the Year by Ernst and Young and received the Indian American Achiever Award by the Global Organization of People of Indian Origin (GOPIO). • Received the Pinnacle Award as one of the Outstanding 50 Asian Americans in Business 2012 by Asian American Business Development Center. • 2014- Fortune Magazine named Paliwal in their “Businessperson of the Year” list. • He was honored by the T. J. Martell Foundation in 2015 • also by Breakthrough, a global nonprofit, for his contributions in advancing women’s causes in 2016 • 2017- received the Ellis Island Medal of Honor and made a donation to Miami University’s Farmer School of Business along with his wife to create the Dinesh and Ila Paliwal Innovation Chair and the Dinesh and Ila Paliwal Scholarship. • CEO, Conduent Inc • Former iGate CEO • joined the Board of IT Governors at the World Economic Forum in 2014 • He served on the board of visitors of the Fuqua School of Business at Duke University • 2015- Enterprise Asia, Outstanding Entrepreneurship Award • 2015- IAIR, CEO of the year. • Chairman, PepsiCo • 2014- she was ranked at number 13 on the Forbes list of The World’s 100 Most Powerful Women. • And was ranked the 2nd most powerful woman on the Fortune list in 2015.
Indra Nooyi (28.10.1955)	Chennai, TN	Greenwich, USA	

TABLE 1 (Cont)

Name	Birth Place	Present Place of Stay	Achievements on Foreign Land
Ajay Singh Banga (1960)	Khadki, Pune, New York, MH USA	New York, USA	<ul style="list-style-type: none"> • In February 2018, the International Cricket Council announced that Nooyi would join the ICC Board as its first independent female director in June • 2018- Nooyi was named one of the “Best CEOs In The World” by the CEOWORLD magazine. • 2008- Nooyi was named one of America’s Best Leaders by U.S. News & World Report. • 2008- she was elected to the Fellowship of the American Academy of Arts and Sciences. • 2008, Nooyi was elected chairwoman of the U.S.-India Business Council (USIBC). • She has been named 2009 CEO of the Year by Global Supply Chain Leaders Group. • 2013- Nooyi was named one of the “25 Greatest Global Living Legends” by NDTV. • CEO and President of MasterCard • he is also the chairman of the U.S.-India Business Council (USIBC) • He is also a member of the board of directors of the Dow Chemical Company; member of the Council on Foreign Relations; and member of International Business Council of the World Economic Forum. • The Government of India awarded him the civilian honour of the Padma Shri in 2016.
Rakesh Kapoor(04.08.1958)	Bareilly, UP	London, UK	• CEO, Reckitt Benckiser
Ivan Manuel Menezes (10.07.1959)	Pune, MH	Based in UK	<ul style="list-style-type: none"> • CEO, Diageo • Menezes is a non-executive director of the US-based fashion retailer Coach, Inc

TABLE 2 SOME OF THE LESSER KNOWN ARJUNAS (SPORTSPERSONS) SETTLED IN INDIA, STRUGGLED AND NOT RECEIVED ACCOLADES FROM THE GOVERNMENT

Sportsman	Difficulties Faced
Rashid Khan	Won Asian Golf Championships twice in 2014. Won Silver at 2010 Asian Games at the age of 19 years. 4 times Winner at Professional Golf Tours of India (PGTI). Reached 197 th Ranking in 2014-15 but has slumped to 824 th Rank now due to constant discrimination and arbitrary attitude of Delhi Golf Club and failed actions of government. Won "Order of Merit" twice.
Hakam Singh Bhattal	In 1978 Asiad, he won a Gold in 20KM Walking but had to succumb to serious ailments due to lack of finances and by the time the finances arrived, he had passed away.
Makhan Singh	Silver Medallist at 1962 Asiad, he took to truck driving and lost a leg in a freak accident. He opened a stationery shop. Succumbed to Heart attack in 2002.
Dingko Singh	India got its first Boxing gold in 1998 due to him but he had to sell his house to afford his cancer treatment.
Sarwan Singh	1954, 110M Hurdles Gold Medallist. Had to sell his medals to afford his finances.
Mohd. Yousuf Khan	Part of the team that won football Gold in 1962 but could not survive on the Rs.5,000 which he got as allowance.
Santhi S	Stripped of her 800M Silver, 2006. She ended up working at brick kilns.
Shankar Lakshman	Part of the Hockey Team to win Silver in 1958 but earned only Rs.25,000 throughout his career.
Bir Bahadur	Star Midfielder of the 1966 Games, he made a living by selling <i>pani puris</i> .
Parduman Singh Brar	Won a Gold in Shotput 1954, 1958 and Gold 1954 and Bronze 1958 in Discus Throw. Silver again in 1962. First man from Asia to do so. Died in Financial distress due to a meager pension of Rs. 3500.
KD Jadhav	India's first individual Olympic medallist. He died in a road accident and was denied pension. Only Sportsman not to be conferred with any award.
Sita Sahu	Double Bronze at Special Olympics in 2011 but now sells <i>golgappas</i> .
Asha Roy	Once a National Record holder in 2011, she sells vegetables to eke out a living and sustain her diet.
Gopal Bhengra	Part of the Indian Team of Hockey World Cup, 1978. Crushes stone in his village in Jharkhand for Rs 50 because his pension of Rs. 1475 was not enough.
Madho Singh	Wanted to coach kids but was always turned down for being illiterate. Had stood fifth at the 1960 Olympics in Wrestling.
Dinesh Kumar	Asian Silver Medallist, had become a <i>kulfi</i> seller as he met with an accident when his vehicle collided with another and he had no money for treatment. His requests for turning a coach fell on deaf ears.
Vijay Kumar	3 Golds and 1 Silver at CWG 2010, Silver at London Olympic Games, 2012. Had an insecure period for two years and didn't find any financial stability and his requests to coach students fell on deaf ears.

TABLE 3 SOME OF THE PEOPLE WITH EXCEPTIONAL ATTITUDE OF UPLIFTING THE SOCIETY WITH THEIR STAND ALONE SPIRIT OR ARJUNA'S STRUGGLING ALONE WITHOUT THE SUPPORT OF OTHERS TO MAKE DIFFERENCE IN THE INDIAN FABRIC. THE INDIAN GOVERNMENT SOMEHOW ACTS INDIFFERENT OR UNCOOPERATIVE TO THESE PEOPLE INSTEAD OF AWARDING OR AIDING THESE UNSUNG HEROES

Lesser Known Person	Struggles and Work
1. Dr. Mapuskar	<p>This inspiring man has dedicated his entire life to the rural sanitation sector. Working for over 50 years in this field, Dr. Mapuskar has implemented the principles of appropriate technology and community ownership at a time when these were not part of the national consciousness. He has been actively working in the field to promote the use of decentralized, low-cost sanitation options. He started promoting the bio-gas toilets and convinced villagers to use them. The efforts of Dr. Mapuskar are commendable and we hope his initiatives reach out to more and more people.</p>
2. Rajlakshmi Borthakur, Bengaluru	<p>Her young son's severe epilepsy left Raji Borthakur devastated. His seizures would come suddenly without warning. Living in constant fear, she never knew when the next seizure would strike. And neither did the doctors. Determined to save her child's life, Raji channelled her inner researcher and innovator. She researched epilepsy obsessively for more than three years and came up with a simple wearable device, a smart glove, which can predict epileptic seizures before they happen. The sensors inside the glove get vital stats from the body and send these to the inbuilt processor. The processor works on the data immediately and sends it wirelessly to patients and caregivers anywhere, thus alerting them to a possible episode of seizure that could prove fatal. Raji's simple yet ingenious solution to her son's life-threatening condition has the potential of saving millions of others living with seizures.</p>
3. Jamuna Tudu, Maturkham, Jharkhand	<p>Maturkham's Lady Tarzan Jamuna Tudu and her band of women activists have managed to conserve 50 hectares of forest land around her village in Jharkhand, taking on the forest mafia with little more than bows and arrows and a whole lot of courage.</p> <p>For years, the dense Sal forest surrounding Maturkham village in Purbi Singhbhum district of Jharkhand was plundered by the forest mafia for its precious Sal timber and rare fauna. Till, a young woman from Odisha married into a family in the village. Young Jamuna Tudu was incensed to see the mafia chopping down Sal trees. She was even more bewildered by the passive response of the community at their habitat being attacked. Seventeen-year-old Jamuna decided to take matters in her own hands. She mobilized a group of 25 women from the village, armed them with bows and arrows, lathis and spears, and marched into the forest to take on the intruders.</p> <p>Over 15 years of many fierce encounters with the mafia and relentless sensitization of the community, Jamuna and the Van Suraksha Samiti she formed have succeeded in protecting and conserving 50 hectares of forest land and its flora and fauna. For her courage in the face of odds, the community calls her, Lady Tarzan.</p>

TABLE 3 (Cont)

Lesser Known Person	Struggles and Work
4. Kamal Kumbhar, Osmanabad, Maharashtra	<p>The Van Suraksha Samiti has about 60 active women members, who patrol the jungle in shifts thrice a day, morning, noon and evening. And sometimes even at night when the mafia set fire to the forests in random acts of vandalism and vengeance.</p> <p>The President of India has awarded her conservation efforts. The Forest Department has 'adopted' her village, which has led to Maturkham getting a water connection and a school. In 2013, Jamuna accepted the Godfrey Phillips Bravery Award in the "Acts of Social Courage" category. Maturkham and its nearby areas are deep in the heart of Naxal territory; Jamuna faces a dual challenge running an environment conservation campaign in the volatile region. Today, she runs awareness campaigns through various forest committees in Kolhan division. Around 150 committees formed by Jamuna, comprising more than 6,000 members, have joined her movement to save the forests.</p> <p>Daughter of a daily-wage labourer, Kamal walked out of poverty and a failed marriage to set up Kamal Poultry and Ekta Sakhi Producer Company. Her organization has enabled 3,000 women in the drought-prone region of Osmanabad, Maharashtra to set up small poultry ventures for a premium variety of chicken. This initiative has helped provide an alternative and sustainable source of livelihood to women trapped in poverty like Kamal herself was once. A serial entrepreneur, Kamal today owns six different businesses and is a role model business leader. Kamal was also a winner of the CII Foundation Women Exemplar Award 2017 in the field of micro-enterprise. Kamal has actively mentored more than 5,000 women to set up micro-enterprises.</p>
5. Ritu Biyani Joseph	<p>Her own suffering with breast cancer made her take it up as her life's mission to spread awareness among urban, rural and tribal reaches of India. She has been travelling across the country to spread awareness about breast cancer. She holds a record in Limca Book of Records, India as the first woman to do a solo drive to the four tips of India. A breast cancer survivor, she is working on an initiative called High>>>ways Beyond Cancer. She organizes various workshops at offices, schools, colleges, hospitals and army camps to spread awareness about the disease.</p>
6. Mukund BS	<p>While most of us are in a race to get the latest gadget, this guy has been creating affordable computers from scrap. Targeting the economically weaker sections of the community as customers, Mukund has created over 10,000 computers from scrap. Not only this, they also provide free after-sale service for these machines for one year. At a time when the computer has become almost a necessity, Mukund is making a huge contribution in the field where those who need the machine but can't afford it now have an opportunity to own one. Now, this is called putting skills to a better use.</p>

TABLE 3 (Cont)

Lesser Known Person	Struggles and Work
7. Sindhutai Sapkal, Mother of Orphans	<p>A social worker, a social activist, “Mother of Orphans”, she is Sindhutai Sapkal, known for raising orphan children. A living legend, she has helped more than a thousand impoverished children. At a very young age of 20, she was thrown out of her house by her husband. With an infant baby girl in her hands, she had no one to turn to. Her parents were poor. Initially, she wanted to end her gruesome life, but then during this period of homelessness, she came to see the pathetic conditions of the street children and orphans. She then decided not to give up hope and fight against the cruelty of India’s male dominated society. Soon she started her life again with full vigor and confidence by resolving to give the orphan children a better and decent life. Years passed by and the number of orphans and street children under her care kept on increasing. With a smile on her face, with courage and determination she helped hundreds of children and also encouraged few others to join her. She was not known to the outside world as she did her work silently. It was the Marathi film “Mee Sindhutai Sapkal” on her life and works in 2010 that made people to know her. She has been honored for several times since then. Till date, she has given home and motherly care to more than 1,000 children and some of these orphans have grown up to be doctors and lawyers. She uses all the money that she receives from charity in helping and providing education to orphans. Thus she has been rightly named the “Mother of Orphans”. We salute this great lady.</p>
8. Babar Ali	<p>At a very young age, Babar has seen his parents struggling to send their kids to school. This made Babar run his own school for underprivileged kids and he also earned the title of “Youngest Headmaster “at the age of 16 by BBC in 2009. Babar Ali is one among those Indian heroes who are working expecting nothing in return.</p>
9. Kalyanasundaram	<p>A 74-year-old man who was a librarian, he donated his entire life’s earning which was around 30 crore rupees, for the betterment of poor people. Kalyanasundaram won “Man of the Millennium” award and lifetime service award in 2011.</p>
10. Sunitha Krishnan	<p>A victim of gang rape herself, Sunitha Krishnan has risen from the ashes to rescue others from trafficking. Her organization, Prajwala, has been rehabilitating the victims after rescuing them. Shelters have been built and a factory has been opened where skills like carpentry, welding, etc. are taught to the girls. As we see many cases of rapes and trafficking, we are filled with disgust. But this lady had the courage to do something about it. Through her blog she talks about the horrifying reality. Working with police and law enforcement agencies, Krishnan is making sure that no girl in the country faces this dreadful plight. She believes in talking about the cause and has been extensively working to make people aware. We are filled with admiration and respect for this amazing lady.</p>

Indian heart is filled with compassion and riches of acumen, intelligence and care, however, despite the above data, Politicos would argue that the majority of population doesn't leave India, not realizing that in the current circumstances, even the low skilled people would like to migrate, usually to Gulf and African countries for better living, opportunities and earnings. Aren't we doing something terribly wrong or are we, in constant inaction for long, causing this willful abandoning by our own citizens? As per the National Statistics, after the uproar of scandalous and disastrous Demonetization of November 2016, even wealthier and stable Indian Billionaire Business families migrated from India and such migrations were also in many thousands.

Is Migration an Escape? Is there anyone who chooses to stay or come back to India despite of top-class education, awareness, access and wealth? Overpowered by their own conscience, whether Arjunas would never leave the country? Or if they leave, would they come back and struggle with the system? What results would such struggle bring to the nation and to Arjunas themselves? Without Krishna's wisdom their struggles confine to their humanistic impact to their immediate environment, squeezing and limiting their personal lives. These Arjunas worthy of recognition, collaboration and awards, receive hostility, disconnection and non-cooperation from our system. Why does this happen?

Theoretically, we have a Democratic Government, which is "for the people" and "by the people." Systematically, it's a fully established Democracy, election being the only way to come to Government body. Practically, as we witness the incessant issues and diaspora, we are wearily aware that the Government fails us!

This book talks about the layers of our democratic, electorate and electioneering system and identifies with its issues. Elections, being the doorway to the Government Bodies, should be more vigilantly guarded to ensure only the eligible and deserving people pass through for screening. Somewhere down the line, the Election and electioneering process is accountable and responsible for giving us corrupt, dysfunctional, non-accommodative and non-visionary Governments. Bookish laws and processes to conduct Elections look almost glorified with few holes to mend, what causes foul is the play and perception played by skilled politicians to win the elections. The book attempts to look closely at every chain progressing toward setting up a new democratic Government, mainly at the General Election. The book analyzes the Election machinery categorically and legally to enlighten the wise, upbeat and curious readers.

The aspects of elections, its functioning, its analysis are all multifaceted and multilayered. While there are ongoing issues that need redressal, there's also a vision that is needed to be achieved. The Politics, itself cannot have a vision; it is open, fluid, for people and by its own people. This book introduces layers of what we see, what we could have seen, what we could have done as citizens, what betterments could have been brought in the system by way of sheer improvisations in the right directions. The Dream to achieve that heavenly

kingdom must be seen and attempted; giving up hope can only let us dwell aimlessly in dungeons.

We have the following characters, from the mythological saga Mahabharata; they talk in the book as the metaphorical voices of ourselves.

Dhritarashtra: The Blind King of Northern India stationed at Hastinapur City, India around 3100 BC. The father of 100 Kauravas who were notorious for being unethical. The King compromised his conscience and upheld the unjust claim for throne for his eldest son Duryodhana against the eldest Pandava Yudhishtira who owned the prestige for his righteousness. Yudhishtira was people's cherished prince with the moniker "Dharamraj" i.e. Ruler of Justice. Not just blinded by vision, Dhritarashtra was hopelessly conscience-blind, and he refused to acknowledge all the public's, his ministers' and even his uncle Bhishma's disapproval for his son's royal ambition. The constant hatred, jealousy, rivalry of the Kauravas and Pandavas took the world to an end through the epic war of Mahabharata where as per the historical accounts the complete 18 *Akṣauhīnī*¹ armies of both sides were slaughtered, i.e. 90 lakh human lives were consumed. During the war, he stayed in his palace, listening to his aide Sanjay about the war. The book visualizes Dhritarashtra's quest after encountering the end of Mahabharata to enlighten himself to the sneak peek at modern India 5100 years apart to comfort himself that the civilization survived and matured into an upgraded administrative, economical, cultural and civic body. Remorseless, as he stayed during Mahabharata, only wants to take refuge in the prosperous, systematic and peaceful existence of his posterity.

Sanjay: The charioteer of Dhritarashtra who obtained the divine eyes through a Sage's boon to view the war of Mahabharata and narrate it to his blind king Dhritarashtra. He, an honest person, spoke about what he saw. Sanjay metaphorically represents our own intuitive vision about the events around us. The news and social media of current times may present a scenario but if we are like Sanjay, we would see it all the way it exists.

Arjuna: The young, aggressive, honest, focused, brilliant, great archer who was the son of King Pandu and one of the great Five Pandavas, stayed with his Honest and Righteous brothers for the sake of greater good. Arjun was too pure at heart that when his mother asked him to share the award that he had won from the archery competition among his brothers, he didn't hesitate though the award was Drupada's only daughter Draupadi. Arjun was the one, who felt emotionally traumatic with the thought that he would have to slay his own kith and kin for the sake of winning the kingdom. He went through the

1. One *Akṣauhīnī* is described in the Mahabharata as a battle formation consisting of approximately 5 lac. warriors (500 K) i.e. 21,870 chariots (Sanskrit ratha); 21,870 elephants (Sanskrit gaja); 65,610 horses (Sanskrit turaga) and 109,350 infantry (Sanskrit pada sainya) as per the Mahabharata (Adi Parva 2.15-23)

battle of Mahabharata bravely and survived till the end. Although, he couldn't save much, not even his own 16-year-old son Abhimanyu. It was only Krishna's wisdom that kept him going throughout despite his aching emotional dilemmas. The book shows the spirit of Arjuna that we can relate to in modern India. Our Indian youth, fresh, upright, updated, focused, energetic, righteous are all Arjunas. In the absence of Krishna, however, they endure a tougher existence going through internal turmoil due to their sensitivity or freshly bloomed consciousness. The book mentions Arjunas going through the rough, real and unfair situations. They struggle to survive without giving up on their soul, though not always successful. Irrespective of their success, they are the winners, they are the hope of our future, and their righteousness can curb problems of immorality, corruption, dysfunctional governance, unfairness and economic slowdown. May they encounter their Krishna's wisdom and be victorious where they are.

Krishna: The divine light, the source of wisdom, the supreme, the father of fathers, the creator, the omnipotent, the omniscient, the omnipresent, the unfathomable persona, the compassionate, the merciful, the king of illusions, the super soul, the infallible, the heavenly, the imperishable, the infinite, the unrestrained, the supreme truth, the supreme power, the protector, the supreme absolute, the universal seed, the universal teacher, the ocean of fortune, the sweetest, the perfect, the supreme self, the Buddha, the supreme yogi, the Narayan is the one who guided the world by presenting the "Shrimad Bhagavad Gita" during the greatest war of Mahabharata to Arjuna. Such wisdom is unfathomable by human minds; still referring to it enlightens our minds with hope and possible solutions. The book uses the voice of Krishna, to brighten the area of utter hopelessness into opportunities to shape our situation into a dream vision. This Krishna exists within us if we strive to discover him with our courage, determination, perseverance and vision of greater good. There are many people who have risen over their smaller selves and work for uplifting others. This book salutes their spirit.

This book is dedicated to all the Arjunas and emphasizes on ailments present in the system, so that together we could find and apply the cure to achieve a better system for each citizen of India. The relevant legal provisions and judgments passed by Indian Courts, referred in the book, are contextual and not exhaustive. The book has 18 chapters weaving Electionomics along with the Shrimad Bhagavad Gita Shlokas^{2,3,4}. It is an interesting and exhilarating exercise to re-examine our current realities through Lord Krishna's wisdom. Hopefully, it awards the same enlightenment to the minds of the readers.

2. <https://www.holy-bhagavad-gita.org/> (accessed Feb, 2019)

3. <https://asitis.com/2/69.html> (accessed Feb, 2019)

4. <https://auromere.wordpress.com/2009/11/01/gita-chapter-18-verse-60-61-illusion-of-free-will/> (accessed Feb, 2019)



PAGE-WISE SECTIONS & CASE LAW

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	A.81(1)(a) (Indian Constitution)—about the members of Lok Sabha directly elected by the people and has most members comprising of 543 MPs			

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	A.331 (Indian Constitution)—about nominations of 2 Anglo-Indians by President			
	A.100(3) (Indian Constitution)—about quorum to constitute a sitting of Lok Sabha is one-tenth of total strength			
	A.85(2)(a)(Indian Constitution)—about termination of house by an order of the President			
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	S.29A (RPA, 1951)—about requirements for Registration of political party			
	S.8(4) (RPA, 1951)—about disqualification from the membership of Parliament of law-maker whose conviction in a criminal case has not been stayed at appellate court			
	S.62 (RPA, 1951)—about right to vote			

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 1	A.239AA of Constitution— Appropriate powers and functions of legislative assembly and council of ministers	Pg 10–11	<i>NCT of Delhi v. UOI & Ors.</i> (2018)—SC	<p>LG of Delhi Govt. has to act as per aid and advice of Council of Ministers of Delhi Govt., except in matters of land, police and public order and he cannot interfere in each and every decision of Delhi Govt., although decisions of the Govt. shall have to be communicated to him.</p> <p>Representative form of Govt. should not become a govt. of elites where representative so elected do nothing to give effect to the will of sovereign.</p> <p>The inherent value of public accountability can never be brushed aside.</p>
		Pg 11	<i>Mohinder Singh Gill and Anr. v. CEC, New Delhi and Ors</i> (1978)—SC	<p>Bottom of all tributes paid to democracy is a little man, walking into a little booth with little pencil, making a little cross on a little bit of paper—no amount of rhetoric or voluminous discussion can possibly diminish overwhelming importance of the point.</p>
			<i>Ragbir Singh Gill v. S. Gurcharan Singh Tohra</i> (1980)—SC	<p>Nothing can diminish overwhelming importance of cross or preference indicated by dumb sealed lip voter.</p>

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
				That is right and trust reposed by Constitution in him; he will act as a responsible citizen choosing his masters for governing country.
			<i>State of Bihar and Anr. v. Bal Mukund Sah and Ors</i> (2000)—SC	Besides providing a quasi-federal system in country and envisaging scheme for distribution of legislative powers between State and Center, it emphasizes establishment of Rule of Law.
Ch 2	S.123 (RPA, 1951)— about corrupt practices S.29A (RPA, 1951)— about requirements for Registration of political party S.8(4) (RPA, 1951)— about disqualification from the membership of Parliament of law- maker whose conviction in a criminal case has not been stayed at appellate court S.62 (RPA, 1951)—about right to vote	Pg 18		
	S.49X of CoER, 1961— about the power of presiding officer to close the control unit of the voting machines in case of booth capturing	Pg 18–19	<i>Basanagouda v. S.B. Amarkhed</i> (1992)—SC	Booth capturing— u/s 58A of RPA, EC should not only be empowered to countermand the election and order a fresh election as per law—also empowered to declare the earlier poll to be void and order only a re-poll in the entire constituency, instead of a re-election—

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
				EC may also be empowered to initiate investigations of booth capturing and other violations of the electoral law through the Central or State police investigating agency and/or by the establishment of special courts/or by appointment of public prosecutors.
Ch 3	S.29A (RPA, 1951)— about registration with election commission of association and bodies as political parties S.29B (RPA, 1951)— about contribution to be accepted by political parties S.29C (RPA, 1951)— about declaration of donation received by political parties	Pg 23		
Ch 3	A.99 of Constitution— about oath or affirmation by members of either house of Parliament Constitution (32nd Amendment Act 1973 and 48th Amendment Act 1978)—about provisions for decision making by the President and Governors in relation to questions of disqualification on ground of disqualification Constitution (48th Amendment) Act 1978	Pg 28		

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	Constitution (52nd Amendment) Act 1985	Pg 28 & on Pg 30-31	<i>Kihota Hollohon v. Zachilhu and Ors.</i> (1992)—SC	To disqualify a member, the Chairman or the speaker of the House usually takes the decision— with respect to the defection of the Chairman or the Speaker, a member of the house, elected by the house, takes the decision.
	S.29A of RPA, 1951— about certain conditions for a political party to form and get registered by EC of India (Election Commission of India)	Pg 29		
Ch 3	S.13A of ITA—about income of political party chargeable under certain heads	Pg 29		
	S.29C of RPA—about duty/obligation of political party to submit EPI a list of donations over 20,000/-			
	S.80CCG & 80GGB of ITA—about the deduction of any contribution made by individual and company to political party			
Ch 3	(Registration and Regulation of Affairs, etc.) Bill, 2011	Pg 30 (Also at Pg 28)		
	A.101(3)(a) of Constitution—about vacation of seats if a member of either house of parliament becomes subject to any disqualifications A.102(2) of Constitution—about disqualification for being a member of either house of parliament if disqualified under 10th schedule		<i>Kihota Hollohon v. Zachilhu and Ors.</i> (1992)—SC	Same as above

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	A.190(3)(a) of Constitution—about disqualifications of person for being a member of either house of parliament if disqualified under clause 1 or 2 of article 191(2); 10th Schedule of Constitution (52nd Amendment) Act, 1985—about disqualification of person for being a member of legislative assembly or legislative council of state if disqualified under tenth schedule			
Ch 3	A.102 of Constitution—about & 191 of Constitution (10th Schedule of the constitution)—about disqualifications on grounds of defection could also be referred to Election Commission	Pg 31	<i>Ravi S Naik v. UoI</i> (1994)—SC	“Voluntarily giving up” membership of political party is not synonymous with registration.
			<i>G. Viswanathan v. Speaker, Tamil Nadu Legislative Assembly</i> (1996)—SC	“Voluntarily giving up” membership of political party by giving up old membership from old party & joining new party.
			<i>Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi</i> (1987)—SC	Presence of independent candidates results in confusion.
Ch 3	A.102 & 191 of Constitution (10th Schedule of the constitution)—about disqualifications for memberships	Pg 31–32	<i>Rama Kant Pandey v. UoI</i> (1993)—SC	Have parliamentary system which involves majority as well as minority.
Ch 5	S.8 of RPA, 1951—about disqualification on conviction for certain offences	Pg 45–46	<i>Lily Thomas v. UoI</i> (2013)—SC	Parliament is to make one law for a person to be disqualified for being chosen or for being member of either House of Parliament or Legislative Assembly, Legislative council of the state.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	A.102(1) of Constitution—about a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament for certain reasons 191(1) (e) of Constitution—about disqualification of membership from Legislative Assembly or Legislative Council of State for certain reasons			
Ch 5	A.74 of constitution—about aid and advise by council of ministers to the President A.75 of constitution—about provisions as to ministers, A.163 of constitution—about aid and advise to the governor by the ministers A.164 of Constitution—about provisions as to ministers	Pg 47–48	<i>Manoj Narula v. Union of India</i> (2014)—SC	On issues with legality of a person; it is difficult to read constitutional prohibition or statutory embargo, such disqualification into A.75(1) or A.164(1) On criminalization of politics—while Interpreting A75(1), disqualification could not be added. PM will not choose a person with criminal antecedents.
Ch 5	A.102(e) of Constitution—about a person not to be deemed to hold office of profit in case of disqualification of membership A.19(1)(a) of Constitution—about right to freedom of speech and expression	Pg 48–49 Also at Pg 56 & 230	<i>Public Interest Foundation v. UoI</i> (2018) After noting decisions in: <i>UoI v. Association for Democratic Reforms</i> (2002) <i>Lily Thomas v. Speaker Lok Sabha</i> (1993) <i>People's Union for Civil Liberties v. Union of India</i> (2003)	Dealing with disqualification of membership of parliament. Conviction u/s 125A should be made a part of S.8(1)(i) of RPA, 1950 SC directions:

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	S.125A of RPA, 1951—about penalty for filing wrong affidavit S.8(1)(i) of RPA, 1951—about disqualification on conviction of an offence punishable under several sections of Indian Penal Code			
Ch 5	A.19(1)(a) of Constitution—about a person to be disqualified for being a member legislative assembly or legislative council of state if he holds any office of profit under government of India or government of any state	Pg 49	<i>Resurgence India v. ECI</i> (2014)—SC	Voter has elementary right to know full particulars of a candidate to represent him in Parliament - +/voter's speech & expression include casting of vote. Further SC directions-
Ch 5	S.62(5) of RPA, 1951—about person not voting if he is under lawful custody of police officer or under sentence of imprisonment or transportation	Pg 51	<i>Ankul Chandra Pradhan v. UoI and others</i> (1997)—SC	Right to vote is subject to the limitations imposed & exercised by the statute.
Ch 5	S.100(1)(i)(d) of RPA, 1951—about ground for declaring election of the returned candidate to be void S.8(3)—disqualification of a person from the date of conviction and continue to be disqualified further after 6 years from the date of his release	Pg 52–53	<i>K. Prabhakaran v. P. Jayarajan</i> (2005)—SC	P. Jayarajan imprisonment term exceed a period of 2 years & attracted the applicability of S.8(3) of RPA which cast a disqualification on P. Jayarajan on the date of scrutiny of the nomination papers.
Ch 5	S.8(3) of RPA, 1951—about disqualification of a person from the date of conviction and continue to be disqualified further after 6 years from the date of his release	Pg 53–54	<i>Mohinder Singh Gill v. Chief EC</i> (1978)—SC	It needs little argument to hold that the heart of Parliamentary system is free and fair elections periodically held, based on adult franchise.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 5		Pg 54	<i>Subhash Chandra Aggarwal v. Indian National Congress & Others</i> (2013)—CIC	The Legal disqualifications that prevent a person from holding office outside a party should operate within the party as well.
Ch 5	A.38 of constitution— about state to secure a social order for the promotion of welfare of people A.39 of Constitution— about about certain principles of policy to be followed by state A.102 of constitution— about limitation on the constitutional right of the citizens to seek the membership of the Parliament A.84 of constitution— about qualification of membership of parliament A.19(1)(a) of constitution—about right to freedom for speech and expression	Pg 54–56	<i>Lok Prahari v. UoI</i> (2018)—SC	Confronted with the question of disqualifying legislators on the ground of disproportionate assets and observed that there could not be any objection for imposing the legal burden upon the candidates to disclose the relevant information—A.19(1)(a)—any limitation on voters could not be inferred.
Ch 5		Pg 56 Also at Pg 49 and 230	<i>People's Union for Civil Liberties v. Union of India</i> (2013)—SC	Right to register NOTA in EVMs— Effective only when 50% or maximum votes polled come in favor of NOTA (without this benchmark, it is inconsequential data).
Ch 5	A.80 of Constitution— about composition of the council of states	Pg 57	<i>Shailesh Manubhai Parmar v. ECI</i> (2018)—SC	If NOTA is allowed in the election of the members to the Council of States, the prohibited aspect of defection would indirectly usher in with immense vigour.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 5	S.7–11 of RPA, 1951— about disqualifications of the members of Parliament or State Legislatures	Pg 72		Law related to disqualification for contesting Elections.
PART II Ch 6	S.29B of RPA—about a political party accepting of any amount contribution offered by individual or company other than a government company	Pg 81		Law regarding voluntary contribution from an individual or a company.
	S.2(e) of FCRA, 1976— no political party shall be eligible to accept any contribution from any foreign source			
Ch 6	S.29C of RPA, 1951— about political parties mandatorily have to submit to the Election Commission a list of donations they received of over Rs. 20,000/-	Pg 82		
	S.13A I.T. Act—about special provisions relating to incomes of political party			Law related to the situation where the income from contribution not to be included in total income of the year.
Ch 6	S.293A of CA, 1956— about prohibitions and restrictions regarding political contributions	Pg 84–85 (Also on Pg 95 & 115)	<i>PIL—Common Clause A Registered Society v. UOI</i> (1996)—SC	To bring transparency in the election-funding. Writ Petition was allowed. SC observed under A.324, EC can issue suitable directions to maintain purity of election and to bring transparency in the process of election.
	S.13A of IT, 1961—about special provisions relating to incomes of political parties			

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	S.77 of RPA, 1951— about account of election expenses and maximum thereof			
Ch 6		Pg 86	<i>SC Aggarwal v. INC and Ors</i> (CIC Order, 2011)	A citizen can access to disclose the sources of their funding details through ITR—Given that the political parties influence the exercise of political power, transparency in their organization, functions and, more particularly, their means of funding is a democratic imperative, and, therefore, is in public interest.
Ch 6	S.29(B) of RPA, 1951— about prohibition of political parties from taking donations from government companies	Pg 88–89	<i>Association for Democratic Reforms & Anr. v. UOI–DHC</i> 2014	Led to amendment of FCRA Act, 2010. Violated provisions of FCRA Act and therefore it challenged donations taken by parties from government companies as also from foreign source, prohibited u/s 4(1)© of FCRA, therefore, donations in favour of Respondents were to be construed— acceptance of foreign contributions by Respondent was banned.
	S.4(1)(a) of FCRA–S.4(1) (e) of FCRA—about prohibition of political parties for acceptance of foreign contributions 2(e)(vi)(c) of FCRA— about political parties not to take donation or money from companies incorporated outside India			

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 6	S.236 of FA, 2016 & S. 217 of FA, 2018—about foreign contribution to be void, illegal and unconstitutional	Pg 89		
Ch 7	R 90 of CER, 1961—about maximum election expenses S. 77 of RPA—about account of election expenses and maximum thereof.	Pg 92–93		
Ch 7	S. 171 of IPC—about punishment for wearing garb or carrying tokens used by public servant with fraudulent intent	Pg 95	<i>Common Cause (A Registered Society) v. UOI</i> (1996)—SC	Unless the statutory provisions meant to bring transparency in the functioning of the democracy are strictly enforced and the election-funding is made transparent, the vicious circle cannot be broken and the corruption cannot be eliminated from the country.
	S.123(1)(A) of RPA, 1951—about Bribery			
Ch 7	A.14 of Constitution—about Equality before law	Pg 96	PIL–DHC—Vivek Narayan Sharma against ‘AamAadmi Party (Political Party) subsidy to power bill non-payers’	Impugned decisions and declaration by R’s entice & encourage people against Rule of Law and Constitution of India—encourage anarchy and destabilize the nation’s welfare—Violative of A.14 of the Constitution and Directive Principle of State Policy.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 8	S.171G (IPC)—about false statement in connection with an election S.153B (IPC)—about Imputations, assertions prejudicial to national integration S.499 (IPC)—about Defamation S.500 (IPC)—about Punishment for Defamation S.501 (IPC)—about printing or engraving matter known to be defamatory matter	Pg 104		
	For Complaint PCR, 1979			
Ch 8	S.10A (RPA, 1951)—about disqualification for failure to lodge account of election expenses S.77 (RPA, 1951)—about account of election expenses and maximum thereof S.78 (RPA, 1951)—about lodging of account with the district election officer	Pg 105	<i>PIL—Ashok Chavan v. Madhavrao Kinhalakar</i> (2014)—SC	Ashok Chavan did not include the expenditure on paid news and advertisement in his election expenses. Order of EC and ET(HC) that EC had gone every jurisdiction to enquire into complaint made before it as regards the correct and untrue statement of accounts of election expenses S.10A of Rules was perfectly justified. Impugned Order of disqualification was maintainable and required no interference. SC dismissed the Appeal.
Ch 8		Pg 106	<i>Secretary, Ministry of Information and Broadcasting, Govt. of India and Ors. v. Cricket Association of Bengal and Ors.</i> (1995)—SC	Freedom of Speech & Expression includes right to acquire information and to disseminate it to public at large and is necessary for self-expression.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
			<i>Narottam Mishra v. ECI and Ors.</i> (DHC, 2018)	DHC—set-aside disqualification of BJP's Narottam Misra on the ground of paid news. ECI filed SLP before SC challenging the May 2018 DHC Order. The case stands been admitted and is now converted in to Civil Appeal— Now pending for final disposal by SC.
Ch 8	S.67 (ITA, 2000)—about publishing or transmitting obscene material in electronic form S.67A (ITA, 2000)—about transmission or publishing of sexually explicit material S.292 A (IPC)—about putting into circulation a grossly indecent or scurrilous picture	Pg 112		
Ch 8	S.67 (ITA, 2000)—about publishing or transmitting obscene material in electronic form S.505 (IPC)—about statements conducing to public mischief S.124A (IPC)—about Sedition S.295A (IPC)—about a deliberate and malicious acts, intended to outrage religious feelings S.153A (IPC)—about promoting enmity between different groups on grounds of religion, place of birth, etc. S.292 (IPC)—about sale etc of obscene book, etc.	Pg 113		

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 8	S.69A (ITA)—about power to block public access of any information through computer resource S.43A (ITA)—about compensation for failure to protect data S.66A (ITA)—about punishment for sending offensive messages through communication service S.79 (ITA)—about exemption from liability of intermediary in certain cases A.19 (Constitution)—about protection of certain rights regarding freedom of speech	Pg 114–115	<i>Shreya Singhal v. UOI</i> (2015)—SC	Internet gives any individual a platform which requires very little or no payment through which to air his view. The secret of blocking process u/s 69 of the act, by which the Govt. can choose to take down content from the Internet, holding that it did not suffer from infirmities in S. 66A, 79 and in a narrowly drawn provision with adequate safeguards.
Ch 8		Pg 115	<i>Common Cause v. UOI</i> (1996)—SC	2014—EC directed the political parties that political advertisements issued in e-papers of any newspapers shall invariably require pre-certification.
Ch 9	A.29 (Constitution)—about protection of interests of minorities A.30 (Constitution)—about rights of minorities to establish and administer educational institutions	Pg 126		
Ch 9	S.123(3) of RPA, 1951—about the promotion or attempt to promote feelings of enmity between different classes of citizens of India	Pg 130–132	<i>Abhiram Singh v. C.D. Commachen</i> (2017)—SC—7 Judge Bench (2014)—5 Judge Bench (1996)—3 Judge Bench	4 Judges arrived 3 separate Judgments. Concluded by D.Y Chandchud— No form of Govt. is perfect. The actual unfolding of democracy and the working of democratic constitution may suffer from imperfections,

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
				which cannot be attended to by an exercise of judicial redrafting of a legislative provision—Hence, no necessity for this Court to take a view at variance with what has been laid down.
	S.153A of IPC—about promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc.			
Ch 9	S.153A of IPC—about promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc. S.295—about injuring or defiling place of worship with intent to insult the religion of any class S.295A—about deliberate and malicious acts intended to outrage religious feelings S.298—about uttering words, etc. with deliberate intent to wound religious feelings of any person 505(1)(2) of IPC—about publication or circulation of any statement, rumour or report causing public mischief and enmity, hatred or ill-will between classes	Pg 132		Penal provisions regarding the religious sentiments being misused.
	S.8, 123(3) of RPA—about prohibition for promotion of enmity on grounds of religion, race, caste, community or language in connection with election as a corrupt electoral practice			

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 9	A.141 of Constitution— about seeking votes on in the name of religion, caste, etc. as corrupt practice	Pg 133		
Ch 9		Pg 151	<i>K. S. Puttuswamy v. UOI</i> (2017)— SC—9 Judge Bench over-ruled 8 & 6 Judge Bench; <i>M.P. Sharma v. Satish Chandra</i> (1954) & <i>Kharak Singh v. State of U.P.</i> (1963) delivered in 1954 & 1961 respectively	Declared that right to privacy as fundamental right under the Constitution.
Ch 9	S.43A of IT Act , 2000—about a corporate body fails to maintain a reasonable security to protect data or information which cause wrongful loss or gain to any person shall be liable to pay damages to person so affected S.72A of IT Act, 2000— about punishment for disclosure of information in breach of lawful contract (with imprisonment for a term not exceeding three years, or with a fine not exceeding upto five lakh rupees or with both)	Pg 152		Data-protection.
Ch 10		Pg 154	<i>Dr. Subramaniam Swamy v. ECI</i> (2013)—SC	Present EVM's system in 2009, does not meet the requirements of the international standards—EVM are open to hacking SC “paper trial” is an indispensable requirement of free and fair elections & permitted EVMs with VVPAT system ensure the

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
				accuracy of the voting system—GOI was directed to provide required financial assistance for procurement of units of VVPAT.
Ch 10		Pg 154–155	<i>Ramesh Pandey v. ECI</i> (2017)	SLP filed by Ramesh Pandey against an order of Uttarakhand HC SC—Petition Disposed—the effectiveness of EVMs does not require their consideration. The blanket ban on criticism of EVMs imposed by EC and upheld by Uttarkhand HC was erased by SC, upholding the fundamental rights of speech, as guaranteed by Constitution.
Ch 10	S.135 of RPA act, 1951— about removal of ballot papers from polling station is an offence S.135A of RPA act, 1951—about offence of booth capturing S.136 of RPA, 1951— about other penalties and offences thereof.	Pg 155–156		Law against tampering of EVMs/ Ballot Papers:
Part III				THE POLITICAL MUSICAL CHAIR
Ch 11	A.324 of Constitution— about superintendence, direction and control of the elections to be vested in an election commission	Pg 160		Model Code of Conduct

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Ch 11		Pg 170	<i>Vivek Narayan Sharma v. UoI</i> (2016)—5 Judges—SC	Demonetization SC frames 8 questions Ultra-virus—S.26(2), 7, 17, 23, 24, 29 & 42 of RBI, 1934? Notification contravene—A.300(A), 14 & 19 & 21 & 26 of Constitution? Scope of Judicial Review in matters relating to fiscal & economic policy of Govt. Issues maintainable u/ a 32 of Constitution? Registry shall accordingly place the papers before CJI for constituting an appropriate bench.
Ch 12	S.22 of RPA, 1950—about correction of entries in electoral rolls	Pg 177	<i>Bashir Adamji Adat v. State of Gujarat and Ors.</i> —GHC—2007	Deletion of 597 names from the list of voters found that no notices were issued to any of them and thus the deletion would be illegal being in violation of S.22 of RPA, 1950. Authorities, directed to hold elections on basis of list of Voters published prior to the deletion.
	S.6A of CA, 1955—about special provisions as to citizenship of persons covered by the Assam Accord	Pg 177–178	<i>Assam Sanmilita Mahasangha & Ors. v. Union of India & Ors.</i> —SC	Group of petitions were filed by people claiming to be ‘original inhabitants’ of Assam challenging the provisions of Para 3(3) of the Schedule R 4A of CR, 2003 Case Pending

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	A.32 of Constitution— about remedies for enforcement of rights			
	R 4A of CR, 2003— about special provisions as to national register of Indian Citizens in State of Assam			
Ch 12	S.126 of RPA, 1951— about prohibition of public meetings during period of forty eight hours ending with hour fixed for conclusion of poll	Pg 181		
Ch 12	135 (A) of RPA, 1951— about offence of booth capturing	Pg 183	<i>Basanagouda v. S.B. Amarkhed</i> (1992)—SC	Tendency to overawe weaker section of the society and to physically take over the polling booths meant for them is on the increase. Booth capturing wholly negates the election process and subverts the democratic set-up which is basic feature of constitution.
Ch 13	A.356 of Indian Constitution—about President's Rule	Pg 188–189	<i>Rameshwar Prasad v. UoI</i> (2006)—5 Bench—SC	Held—Proclamation of dissolving Bihar state Assembly was unconstitutional and the dissolution has been done in mala fide way which is illegal. Process of re- election which is into motion and could not be reversed, the proclamation would not be withdrawn and the Assembly will remain suspended allowing for the election of a new Legislative Assembly.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
				5 Judge Bench—If political party with the support of other political or other MLAs stakes claim to form a stable Govt. , the governor cannot refuse formation of the Govt. and override the majority claim because of his subjective assessment that the majority was cobbled by illegal and unethical means.
	A.163(2)—about Governor’s rule A.361—about protection of president, governors and rajmukhs	Pg 189	<i>Chandrakantkavlekar v. UoI</i> (2017)—SC	Upheld—Decision of the Governor by directing an expedited floor test. No scope to challenge decision taken by the Governor in his discretion, one of the many such decisions being the appointment of CM. De facto, there is an explicit bar against this, expressed in A.163(2) & 361, stipulating that the Governor shall not be answerable in any Court of Law for the exercise and performance of her powers and duties. Congress tainted guns of Karnataka Governor Vajubhai Vala over his invitation to BJP to form the govt.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 13		Pg 190	<i>G. Parameshawara v. UoI & Ors</i> (2018)—SC	Mr. Yeddyurappa of BJP being sworn in as CM failed the floor test. Instead of single largest party, the Congress—JD(S) alliance won the floor test. However, raised question uniformity in SC approach in Governor's contrary stands in inviting the political parties to form govt.
Ch 13		Pg 191	<i>Mithilesh Kumar Pandey v. ECI</i> (DHC, 2014)	Making a manifesto a legally binding document on the political party issuing the same and post-poll alliances between political parties are valid even if there election manifestos declared that they will not make any post-poll alliance.
Ch 13	A.53 of the Constitution—about executive power of the union	Pg 195		President power's
Ch 13	A.356(1) of Constitution—about proclamations of president	Pg 196	<i>SR Bommai & Ors. v. Union of India</i> (1994)—SC	A.356(1)—examining whether the conditions precedent to the issue of Proclamation have been satisfied or not. President has to have sufficient proof of information with regard to or has to be free from doubt or uncertainty about the state of things indicating that situation in question has arisen.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 13	A.53 of the constitution— about executive power of the union A.74 of the Constitution—about aid and advise to the president by the council of ministers 42nd Amendment Act, 1976—about advice of Council of ministers to binding on President A.75 of the Constitution—about other provisions as to ministers	Pg 197		
Ch 13	A.75 of the Constitution—about other provisions as to ministers	Pg 199		
Ch 14	S.123 of RPA—about corrupt practices	Pg 210	<i>Roberts v. Hopwood and Ors. (1925)—AC</i>	State cannot act in furtherance of “eccentric principles of socialistic philanthropy” S.123 of RPA—voter must be influenced to vote in a particular manner.
			<i>Richardson-Gardner v. Eykyn (1869)—LT</i>	Making of charitable gifts on an extensive scale would lead to an interference that this was made to influence voters—Promises in the election manifesto do not constitute as a corrupt practice under the prevailing law.
Ch 14	S.123 of RPA—about corrupt practices	Pg 210–211	<i>Prof. Ramchandra G Kapse v. Haribansh Ramakbal Singh (1996)—SC</i>	“Ex facie contents of a manifesto, by itself, cannot be a corrupt practice committed by a candidate of that party.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
		Pg 211–213	<i>S. Subramaniam Balaji v. State of Tamil Nadu</i> (2013)—ECI	Misleading to construe that all promises in the election manifesto would amount to corrupt practice. A324 of Constitution mandates the Commission to hold free and fair elections. EC cannot issue such orders if the subject matter of Commission order is covered by the legislature measure. SC directed EC to frame guidelines in consultation with all recognized political parties & also record the need for a separate legislation to be passed by legislature in this regard for governing political parties in our democratic society.
Ch 15	A.324 of the Constitution—about superintendence, direction and control of the elections to be vested in an election commission	Pg 221		
Ch 15	A.19 C1 2 of Constitution—about protection of certain rights regarding freedom of speech which shall not affect the operation of any existing law, or prevent the state from making any law	Pg 223		
Ch 15	S.171 of IPC4—about wearing garb or carrying token by public servant with fraudulent intent	Pg 224		

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 15	S.324 of Constitution— about superintendence, directions and control of the election to be vested in an election commission	Pg 225		Toothless Tiger
Ch 15	S.8 of RPA—about disqualification on conviction for certain offences	Pg 230 Also at Pg 49 & 56	<i>People's Union for Civil Liberties v. UoI—SC—(2013)</i>	PIL—NOTA was introduced in the electronic voting machines in India after the landmark judgment delivered by SC.
Ch 15	A.324(2)—about power of parliament to remove any tribe or tribal community from list of scheduled tribes	Pg 234	<i>T. N Seshan, Chief ECI of India v. UoI and Ors. (1995)—SC</i>	A.324(2) & (5) of Constitution— Once provision for constitution of multi- member Commission is unassailable, provisions incidental thereto cannot be challenged. Failure to consult CEC before appointments of ECs did not vitiate appointment as A.324 nowhere stipulates that before ECs are appointed, CEC will be consulted. Decisions to constitute multi- member Commission was not actuated by malice. ECs could not be thought of as pliable persons being appointed with sole object of eroding independence of CEC.
Ch 16		Pg 237	<i>Ajay Makan v. Adesh Kumar Gupta (2013)—SC</i>	Election Petition is not a common law proceeding but it is a creature of the statute.
	S.80 of RPA, 1951— about election petitions			

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	A.329(b) of Constitution—about no election of both the houses shall be questionable except by an election petition			
Ch 16	A.226—about power of high courts to issue certain writs A.329 (b) of Constitution—about no election of both the houses shall be questionable except by an election petition.	Pg 238	<i>N. P. Poomuswami v. Returning Officer</i> (1952)—SC	SC upholding the order of HC said that any matter with regard to electoral process cannot be filed under A.226 and it has to be filed within election petition. Hence, HC has no jurisdiction under A.226 of Constitution to entertain petition.
	S.100 of RPA, 1951—about grounds for declaring elections to be void A.226 of Constitution—about power of high courts to issue certain writs		<i>Bhaskar Khare v. ECI</i> (1967)—HC	Every matter with regard to election process should not be interfered by HC u/ a 226. S.100 of RPA, 1951 deals with grounds on which an election may be challenged by means of election petition.
Ch 16	S.123(7) of RPA, 1951—about obtaining or procuring or attempting to obtain or procure by a candidate or his agent, or by any other person, any assistance for the furtherance of the prospects of that candidate's election, from any person in the service of the government	Pg 239–240	<i>Indira Gandhi v. Shri Raj Narain & Another</i> (1975)—SC	HC Allahabad—Due to malpractices, Indira Gandhi cannot continue as PM of the nation, further she cannot contest elections for another 6 years. SC—granted conditional stay—clubbed with Indira Nehru Gandhi (supra).
	A.329A of Constitution—about the obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person [with the consent	Pg 240	<i>Keshavananda Bharati v. State of Kerala</i> (1973)—SC	Upheld the contention of Raj Narain & declared the impugned Cl 4 of A.329A as unconstitutional.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government			Principle of Separation of Power which build checks and balances in the Democracy to check that there is no sort of encroachment and overstepping.
	S.33 (5) of RPA—about candidate who is an elector of a different constituency, a copy of the electoral roll of that constituency or of the relevant part or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny. S.77 of RPA—about account of election expenses and maximum thereof S.123(6) of RPA—about incurring or authorizing of expenditure in contravention to section 77 (account of election expenses and maximum thereof)	Pg 240–241	<i>Jeet Mohindersingh v. Harminster Singh Jassi</i> (1999)—SC	Respondent must file copy of electoral roll of his constituency or certified copy in his constituency along with nomination papers. In absence of electoral roll, RO will reject nomination. Respondent having incurred expenditure in excess of the prescribed limit and filed false return of expenses & by authorizing the same over and above the one prescribed u/ s 77 of the Act and committed a corrupt practice within the purview of S. 123(6) of the Act.
Ch 16	S.81—about presentation of petitions S.100—about grounds for declaring election to be void S.40—about election agents, 123 of RPA—about corrupt practices	Pg 241–243	<i>Ishwarlal Rohani v. Alok Mishra</i> (2012)—SC (Referred <i>Dhartipakar Madan Law Agarwal v. Rajiv Gandhi</i>)	After Nomination, accused will be guilty of any activity falling within the scope of any one of corrupt practices enumerated under sections of Act. (In referred case, in allegations of corrupt practices, there should be no vagueness in allegations.)

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 16	O VI R16 of CPC—about striking out pleadings O VII R11 of CPC—about rejection of plaint S.123—about corrupt practices S.77—about account of election expenses and maximum thereof, S.78 of RPA—about fresh poll in the case of destruction	Pg 243–247	<i>Ajay Arjun Singh v. Sharandendu Tiwari and Ors.</i> (2016)—SC (Referred— <i>Bhikaji Keshao Joshi v. Brijlal Nandlal Biyani</i> (1955) & <i>Ponnala Lakshmaiah v. Kommuri Pratap Reddy</i> (2012))	O VI R16 of CPC—Ensure parties to a legal proceeding—entitled to <i>ex debito justitia</i> Court examining an election petition—Order striking out vague charges. SC—OVII R11 CPC—Election Petition be dismissed for disclosure of any cause of action. Court—Total amount of expenditure incurred—S77 of the Act—HC rejected Applicant application. S.78—Disclosing income of expenditure S.77—obligates leaders transport—shall not be a part of expenditure—but not the entire expenditure by star candidates or on their behalf.
Ch 17	S.82 of RPA, 1951—about parties to the petition	Pg 248	<i>Jyoti Basu v. Debi Ghosal</i> (1982)—SC	SC upheld contention of corrupt practices and allowed his appeal holding the u/s 82 of RPA, 1951 candidates at impugned election could be joined as Respondents to an Election Petition (EP) & no one else.
Ch 17		Pg 248–249	<i>Km. Shradha Devi v. Krishna Chandra Pant</i> (1982)—SC	SC—HC should have examined all invalid votes rather than 2 paper ballots—sent the case back to HC for re-examination.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17	S.73—about publication of results of general elections to the house of people and legislative assemblies and names of persons nominated thereto S.21 of RPA, 1951—about returning officers	Pg 249–250	<i>Pashupati Nath Sukul v. Nem Chandra Jain & Ors.</i> (1984)—SC	Secretary of U.P. Legislative Assembly (was appointed as RO u/s 21) could not be appointed as RO—SC—Govt. in S.21 should be interpreted liberally (with Legislature, Executive & Judiciary). SC—Election name in EC notification u/s 73, can take part in non-legislative assemblies activities of the elected members (including State Council's).
	A.188 of Constitution—about oath or affirmation by members of legislative assembly or legislative council of a state			
Ch 17	A.324 of Constitution—superintendence, directions and control of the election to be vested in election commission	Pg 250	<i>AC Jose v. Sivan Pillai</i> (1984)—SC	SC—EVMs could not be used in elections without an express provision in law—EC has to conduct election according to law in exercise of A. 324 powers—supplement the law but not supplant it.
Ch 17		Pg 251	<i>ECI v. State of Haryana</i> (1984)—SC	HC—was not justified in substituting its own opinion for EC duly appointed for specific purpose by law and Constitution. SC— (4:1)—Stuck down HC order
Ch 17	Form 22 (certificate of Election) Form 21 u/r 64 A of Elections Rules, 1961 A.329 of Constitution—about bar to interference by courts in electoral matters	Pg 251–252	<i>Krishna Ballabh Singh v. SDO Hilsa cum RO & Ors.</i> (1985)—SC	SC—Process of election came to end only after the declaration Form 21 C declaration under Form 64 was made (along with consequential formalities, by RO)

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17	S.83(1)(a)—about election petition shall contain a concise statement of material facts on which petitioner lies	Pg 252–253	<i>Indrajit Barua & Ors. v. ECI</i> (1986)—SC	<p>HC—Petition challenging the electoral rolls and questioning its validity.</p> <p>SC—Dismissed all Petitions—Whole General Election could not be called in question by writ petition—validity could not be questioned—electoral rolls were effective as the finality of electoral rolls could not be assailed.</p>
			<i>Azhar Hussain v. Rajiv Gandhi</i> (1986)—SC	<p>Petitioner challenged corrupt practices.</p> <p>SC—Election Petition did not furnish mandatory material facts and particulars in regard to allegation of corrupt practices—material facts should be ignored and pleaded in the Petition.</p>
Ch 17	CPC	Pg 253	<i>Dhartipakar Madan Lal Aggarwal v. Rajiv Gandhi</i> (1987)—SC	<p>HC—Petition did not contain sufficient averments to constitute any corrupt practices.</p> <p>SC—Dismissed HC appeal—Petition should consider desirability of amending law to prescribe time limit for inquiring into allegations of corrupt.</p>
Ch 17	S.16 RPA, 1951—about disqualification for registration in an electoral polls	Pg 254	<i>ECI v. Shivraji & Ors.</i> (1988)—SC	<p>SC—HC has no jurisdiction as per 329(b), to interfere in electoral process & both the interim orders were without jurisdiction.</p>

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	A.329(b) of Constitution—about no election to either house of parliament or to either house of legislature of a state shall be called in question			
Ch 17	S.82—about notification for biennial election to a state legislative council S.86 of RPA—about trial of election petitions	Pg 255	<i>B. Sundra Rami Reddy v. ECI</i> (1991)—SC	SC—Only those who may be joined as Respondents to an Election Petition as per S. 82 & 86 of RPA; no others—EC cannot be impleaded as a party o an EC.
Ch 17	20th Schedule of Constitution—about A.226—about power of high courts to issue certain writs A. 227—about power of superintendence to all the courts by high court A.136—about special leave to be appeal by the Supreme Court	Pg 255	<i>Kihoto Hollahan v. Zachillu</i> (1992)—SC—(3:2)	SC—Stuck down 10th Schedule Changes in A.136, 226 & 227 of constitution should be ratified by the specified no of state legislatures. Validity of remaining paragraph in 10th schedule, speaker order was justifiable & subject to judicial review by HC & SC u/a 226, 227 & 136 of Constitutions.
Ch 17	A.14—about equality before law A.19 of Constitution—about freedom of speech	Pg 256	<i>Rama Kant Pandey v. UoI</i> (1993)—SC	SC—14 days period for election campaign could not be said to be inadequate and inappropriate as per changed circumstances.
	S.52—about death of a candidate of a recognized party before the poll S.30 of RPA, 1951—about appointments of dates for nominations			

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17		Pg 256–257	<i>Lal Bahu Hussain v. ERO & Ors.</i> (1995)—SC	SC—issued its own guidelines for Electoral Registration Officers in the matter of enrollment and deletion of names of persons suspected to be foreign nationals.
Ch 17	A.324(2) of Constitution—about power of parliament to include or exclude any tribe from list of scheduled tribe	Pg 257	<i>T. N. Seshan v. UOI</i> (1995)—SC	SC—dismissed writ petition—upholding appointment of Dr. M.S. Gill and Shri G.V.G. Krishnamurthy as Election Commissioners.
Ch 17	S.21 of General clause Act—about power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws	Pg 257–258	<i>Janata Dal (Samjhwati) v. ECI</i> (1996)	SC—Once the Commission is satisfied that a political party recognized as a National party has ceased to fulfill their conditions prescribed in paragraph 6(2) of the Symbols Order as a result of any Election—can de-recognise as National party & provisions of S.21 are also applicable.
Ch 17	S.77 of RPA, 1951—about account of election expenses and maximum thereof	Pg 258 (Also at Pg 84– 85 & Pg 95 & 115)	<i>Common Cause v. UOI</i> (1996)—SC	To bring transparency in the election-funding. Writ Petition was allowed. SC observed under A.324, EC can issue suitable directions to maintain purity of election and to bring transparency in the process of election.
	S.293 A of Companies Act—about prohibitions and restrictions regarding political contributions			

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	A.324 of Constitution— about superintendence, direction and control of election to be vested in an election commission			
	A.324 of Constitution— about superintendence, direction and control of election to be vested in an election commission	Pg 258–259	<i>Kanhaiya Prasad Sinha v. UoI</i> (1990)—HC	EC issued directions to State Govt. concerned. HC—3 separate concurring Judgments— directions u/a 324, must be respected & implemented by concerned authorities.
Ch 17	S.15(2)—about notification for general election to a state legislative assembly for said purpose S.30—about appointment of dates for nomination S.153 of RPA, 1951— about extension of time for completion of elections	Pg 259	<i>N. Kristappa v. CEC</i> (1995)—HC	HC—EC sufficiently clothed with power u/a 324 and issue appropriate directions, rescinding the election notification for the conduct of free and fair elections in a given case.
	S.21 of General Clause Act, 1897—about power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye laws.			
	A.324 of Constitution— superintendence, directions and control of election to be vested in an election commission			
Ch 17	S.15(2)—about notification for general election to a state legislative assembly for said purpose S.30—about appointment of dates for nomination S.15 of RPA, 1951— about notification for general election to state legislative assembly	Pg 260	<i>P Ravindra Reddy v. EC</i> (1995)	HC—Commission still retains its jurisdictions also its plenary powers u/a 324, except provisions made by parliament.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	S.21 of General Clause Act, 1897—about power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye laws.			
	A.324 of Constitution—about superintendence, directions and control of election to be vested in an election commission			
Ch 17	A.324—about superintendence, directions and control of election to be vested in an election commission 329(b) of Constitution—about no election to either house of parliament or to the house or either house of the legislature of a state shall be called in question except the election commission	Pg 261	<i>Om Prakash Shrivastava v. EC</i> (1996)—AHC	EC—Shri Shrivastava was wrongly included in the list of contesting candidates & directed that his name to be deleted from contesting candidates after nomination. HC—EC has rightly contemplated its powers u/a 324, not contemplated in RPA, 1951— therefore it cannot interfere EC order in view of A.329(b) as election was still in progress.
Ch 17		Pg 262	<i>Harbans Singh Jalal v. UoI</i> (1997)—Punjab & Haryana HC	HC—EC is entitled to free and fair elections—antior to the date of issuance of notification of election by the Governor, and from the date of announcement of election by Commission. From the date of announcement Model Code of conduct adopted by the political parties directed by the Commission.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17	S.8(3) of RPA, 1951—about A person convicted of any offence and sentenced to imprisonment for not less than two years shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.	Pg 263	<i>Kotha Das Goud v. RO and Ors.</i> (1998)—HC	Conviction of Shri Goud—False information furnished by him—Directions of EC. HC—Respondents acted well in their powers in ordering deletion of petitioner's name from the list of contesting candidates by rejecting nomination as per A324. HC cannot interfere in this case as per A329(b) of Constitution, as election process is still on.
	S.29A of RPA, 1951—about registration with election commission of associations and bodies as political parties	Pg 264	<i>Arjun Singh v. President, INC</i> (1996)—EC (Upheld by <i>Sadiq Ali v. ECI</i> —SC)	Commission (2:1)—Superior majority support both in organizational and legislature wings of the party—group was not functioning as per the provisions of the party constitution. In context of parties failed to hold their organizational elections (like INC)—Commission decided to issue independent notices to all such parties to hold regular organizational elections.
Ch 17	A.226—about power of high court to issue certain writs 329(b) of Constitution—about no election to either house of parliament or to the house or either house of the legislature of a state shall be called in question except the election commission	Pg 264	<i>N.P. Ponnuswami v. The RO, Namekkal Constituency</i> (1952)—SC	Madras HC—dismissed writ petition on the ground that it had no jurisdiction to interfere with the order of RO as per A329(b).

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
				SC—confirm the HC view point—electoral process once started could not be interfered with at any intermediary stage of Courts.
Ch 17	A.192(2)—about governor to obtain opinion from election commission before making any decision A.226 of Constitution—about power of high court to issue certain writs	Pg 265	<i>ECI v. Saka Venkata Rao</i> (1953)—SC	Madras HC—A.192 applied only to cases of supervising disqualification. SC dismissed EC appeal, confirming and upholding the view taken by HC.
Ch 17	A.191—about disqualification of membership A.192(1)(2)—about decisions on questions as to disqualification of members A.226 of Constitution—about power of high court to issue certain writs	Pg 265	<i>Brundaban Nayak v. ECI and Another</i> (1965)—SC	SC—EC had the jurisdiction to make the enquiry into the question of such disqualification referred to it u/ a 192(2) of Constitution.
Ch 17	A.329(a) of Constitution—about bar to interference by courts in an electoral matters	Pg 265–266	<i>Meghraj Kothari v. Delimitation Commission and Others</i> (1967)—SC	SC—Objection to the delimitation of constituencies could only be entertained by the Delimitation Commission and not by any Court in view of the prohibition contained in A.329(a) of the Constitution.
Ch 17	A.173(a) of Constitution—about qualification of membership of state legislature the person should be the citizen of India	Pg 266	<i>Pashupati Nath Singh v. Harihar Parasad Singh</i> (1968)—SC	SC—qualified u/ a 173(a) on the date fixed for scrutiny of nominations, and therefore taken oath before not on date of nomination.
Ch 17	Election Symbols (Reservation and Allotment) Order, 1968	Pg 266	<i>Sadiq Ali v. ECI</i> (1972)—SC	SC—Test of majority or numerical strength applied by the commission for determining the dispute was a relevant and valuable test, and rightly applied by Constitution.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
				<p>Para 15 dispute between rivals group ultra virus powers of EC u/a 324 of constitution</p> <p>Election Symbol is not property of party concerned.</p>
	A.324 of Constitution—superintendence, directions and control of election to be vested in an election commission			
Ch 17	S.123—about obtaining 329-A of RPA, 1951—the prime minister shall only be called in question by specially prescribed authority during election	Pg 267	<i>Indira Nehru Gandhi v. Raj Narain & Another</i> (1975)	<p>HC—Smt. Gandhi by procuring assistance for her campaign, committed corrupt practices u/s 123(7) of RPA, 1951.</p> <p>SC—upheld election of Smt. Indira Gandhi to the House of People, allowing her appeal, and rejecting the cross-appeal of Shri Raj Narain.</p>
Ch 17	A.136 of Constitution—about special leave to appeal by supreme court	Pg 268	<i>All Party Hill Leaders Conference v. W.A. Sangma</i> (1977)—SC	<p>SC—laid principle—in merger of political parties, the general membership of the party has a vital say and has to be consulted.</p> <p>If members who claimed to continue the party answered the test laid down in the Symbols Order for recognition as a State Party would continue to be recognized by EC.</p> <p>EC in Tribunal—while deciding dispute under parah 15 or 16 of the Symbols Order, u/a 136 of Constitution and appeal from its order under those parah's.</p>

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17	S.23(3) of RPA, 1950—no names of electors to be fraudulently entered into the electoral roll on the last date of for filing nominations	Pg 268	<i>Narendra Madivalapa Kheni v. Manikarao Patil</i> (1977)—SC	HC—declared the election of returned candidate as void; electors whose names were added to the electoral roll in contravention of S.23(3). SC—upheld HC order—no inclusion, deletion or correction could be made in the electoral roll thereafter, which would be illegitimate or illegal as per S.23(3).
Ch 17	A.226—about power of high court to issue certain writs A.329(a)—about the validity of shall not be questionable in any court A.324 of Constitution—about superintendence, directions and control of election to be vested in an election commission	Pg 269–270	<i>Mohindersingh Gill v. CEC</i> (1977)—SC	SC—Order of EC directing a re-poll was a step in the process of election and as the election process was not yet complete, writ petition was not maintainable u/a 329(a). SC—after examining A324—EC may be required to cope up with some situation in the conduct of elections. A.329(b) was a blanket ban on litigative challenges to electoral steps taken by EC & its officers to complete Election.
Ch 17	S.61(A) of RPA, 1951—about voting machines at elections	Pg 270	<i>AIADMK v. CEC</i> (2001)—SC (Referred <i>A.C. Jose v. Sivan Pillai and Ors.</i>)	Validity of S.61(A) challenged in <i>A.C. Jose v. Sivan Pillai and Ors.</i> SC—A326, 327 cannot be interpreted as to enable the taking away the jurisdiction or to abridge the powers of EC u/a 324.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
	A.326—about election to the house of people and legislative assembly to be on the basis of adult suffrage			
	A.327—about power of parliament			
	A.324 of Constitution—about superintendence, directions and control of election to be vested in an election commission			
Ch 17	R 4 of conduct of Elections Rules, 1961	Pg 270	<i>UoI v. Association of Democratic Reform</i> (2002)—SC	SC—HC has ample jurisdiction u/a 32 read with A.141 & 142, to issue necessary directive to sub serve public interest, to fill the void in absence of suitable legislation.
	A.141—about law declared by supreme court to be binding on all courts			
	A.142 of Constitution—about enforcement of decrees and orders of the supreme court			
Ch 17	A.171 of Constitution—about duration of state legislatures	Pg 270–271	<i>INC (I) v. Institute of Social Welfare & Ors.</i> (2002)—SC (Referred— <i>CPI (M) v. Bharat Kumar & Ors.</i>)	Writ Petition filed in HC abide by Law declared by SC of calling bandh is unconstitutional. Petition prayed for enforcement of decision in the case of <i>CPI (M) v. Bharat Kumar & Ors.</i> There is no express provision in law which empowers EC to deregister any party on the ground of violation of Constitution, except in certain exceptional cases like fraud.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17	A.174 of constitution— about sessions of the state legislature, prorogation and dissolution	Pg 271	Special Reference No. 1 of 2002 (Gujrat Election Reference case) SC	SC—A 174(1) is applicable to a dissolved Legislative Assembly, there is no infraction of the mandate in preparing for elections to an Assembly by EC.
Ch 17	S.33B of Association for Democratic reforms	Pg 271	<i>PUCL & Anr v. UoI</i> (2003)—SC	Directions by SC in Association for Democratic reforms case. Provision of S 33B was challenged. Court—It cannot enact a law which violated fundamental rights—Candidate would not be bound to furnish certain information as directed by SC—No question of interpreting constitutional provisions.
Ch 17		Pg 272	<i>Ram Phal Kundu v. Kamal Sharma</i> (2004)—SC	SC—RO had rightly rejected the nomination of Shri Kamal Sharma based on documentation scrutiny.
Ch 17		Pg 272	<i>Manda Jaganath v. K.S. Rathnam</i> (2004)—SC	RO on scrutiny of nomination papers found that Form B submitted by the Respondent was blank in columns 2 to 7—RO rejected the form and accepted the nomination paper— treated Respondent as an independent candidate SC—matter to be decided in an election petition.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17	S.8(3)—about disqualification provision in case of imprisonment for 2 years or more & S.8(4)—about protection of the membership in the hose of which he was member S.100(1)(d)(i) of RPA, 1951—grounds for declaring elections as void	Pg 272–273	<i>K. Prabhakaran v. P Jayarajan</i> (2002)—SC	SC—imprisonment—2 years or more (attracted disqualification)—S.100(1)(d)(i), qualification or disqualification of a candidate shall be determined with the date on which he was declared elected—decision of subsequent date in an appeal against conviction would not have the effect of wiping out disqualification that existed on the focus dates of date of election and date of scrutiny.
Ch 17	A.174(2)(b)—about governor may resolve the legislative assembly from time to time. A.361(1) of Constitution—about the president or governor or rajmukhs shall not be answerable for the exercise of their powers and acts done	Pg 273	<i>Rameshwar Prasad & Ors. v. Uol</i> (2006)—SC	SC—no restriction u/a 174(2)(b) stipulating that the power to dissolve the Legislative Assembly can be exercised only after first meeting of the Assembly. 23.5.2005 Proclamation of President Rule dissolving Bihar Assembly, unconstitutional. Governor enjoys complete immunity u/a 361(1) and not answerable to any Court for the exercise and performance of the power and duties to his office—A.361(1) does not take away Court power to examine the validity of action including malafides.

CHAPTERS	SECTIONS	PAGE	CASE	JUDGMENT
Ch 17	S.82 of RPA—about parties to the petition	Pg 274	<i>Michael B. Fernandes v. C.K. Jaffar Sharief & Ors.</i> (2002)—SC (replying to Jyoti Basu's case and B. Sundrara Rami Reddy's case)	SC—replying to Jyoti Basu's case and B. Sundrara Rami Reddy's case—those numerated in S. 82 could be joined as parties in Election Petition.
Ch 17	R 7(3) of Cable Television Networks Rule, 1994—about advertisements not to be directed towards any political and religious end	Pg 274–275	<i>Secretary, Ministry of Information & Broadcasting v. Gemini TV (Pvt) Ltd.</i> (2004)—SC	SC—interim order—directed that political parties, candidates or any other person or organization, intending to issue advertisement of political nature on TV Channel or Cable Network, obtain necessary clearance from the Commission or designated officer; to be shown.
Ch 17		Pg 275	<i>UoI v. Harbans Singh Jalal & Ors.</i> (1997)—SC	Panjab & Haryana HC—Judgment held in MCC, could be enforced from the date of announcement of an election. 16.4.2001 O.M., SLP and connected matters were disposed off.
	A.103(2)—about opinion of the election commission to be considered before the decision making by the president. 102(1)(a)(of constitution)—about disqualification of membership by either house of the parliament if a person holds any office of profit	Pg 275	<i>Jaya Bachchan v. UoI</i> (2006)—SC	After EC opinion, in exercise of A.103(2) of Constitution, President decided that Petitioner stands disqualified for being a member of Rajya Sabha. Petitioner challenged both the said decisions of President & EC. SC—Office did carry with it a monthly honorarium—no merit in the writ Petition and the same was accordingly dismissed.

1. The Presidential and Vice-Presidential Elections Act, 1952.

PROLOGUE

It was all for the throne.

The childhood squabbles of brothers germinated into political conspiracies. The draggers were drawn and one faction ousted the other with deceit. The grievd were the righteous and the Avatar of the God was their ally. For long, they endured the torments of injustice. This kin provided enough opportunity to the unjust to accommodate their respectful coexistence. The partisans further renewed their acts to corrode the dignity of humble sufferers ignoring their dynastic rights and divine origins.

The world began to divide.

Soon enough, almost every alive and capable warrior found its way to the war zone. The ocean of chariots, elephants, cavalries and foot soldiers came face to face in the ratio of Eleven and Seven, to meet the common fate.

Just when they were about to begin, the conscience of Arjuna dangled his heart with the foreseen culpability. Lord Krishna dissipated his turbulence and enlightened him toward the action required for justice, peace restoration and public welfare. While Arjuna received the salvation in his detached deeds contributing to the holocaust, the mankind witnessed the slaughter of entire 18 *Akṣauhiṇī* (90 lakh people) comprising the armies of both sides.

Maharaja Dhritarashtra of Hastinapur, the blind, spineless, remorseless, muddled with emotions for his offspring, survived the death of his 100 sons, uncles, brothers, teachers, associates, allies, soldiers, servants. His heart ached for revenge and that too had met with the failure. Sanjay, his charioteer, who was awarded with the vision to see all of it, had stationed himself next to his master throughout the battle, to describe every detail of the gory saga.

Maharaja and Sanjay were the two comrades who had gained the experience of neutrality, the pain of departure and knowledge of conspiracy. They were also the two, who acquainted themselves with the supreme wisdom of Lord Krishna.

After all of it, nothing was left.

Sanjay still had the vision and Maharaja still had the life. Then Maharaja expressed “Sanjay! I, who witnessed my babies giggle, blossoming into jubilant youth and coveting for the crown, didn’t, even once, object to their ways.

I wanted to live in absolute through them. My ambition failed. Now, Sanjay, I have a bastard, who would procreate into my progeny. They shall survive with times. And I want to have another chance, to live, seeing them prosperous. Sanjay, see ahead in time, a very long time, may be 5,000 years apart, see how they live, see how they thrive. Tell me Sanjay, what do you see?"

PART I

**THE SHADES OF ENIGMATIC
DEMOCRACY OF INDIA**





CHAPTER 1

THE BIG DANCE OF INDIAN ELECTIONS

“Democracy is a device that ensures we shall be governed no better than we deserved.”

George Bernard Shaw

“Tell me Sanjay, What do you see?”

“I see the drums. I see the garlands. I see the enthusiasm. I see the people in modern chariots, lot of people, happy and excited people. I see sign of Lotus everywhere on orange clothes, people carry its flag, people carry it on their caps, people wrap it around their necks, it’s orange everywhere Maharaj. One chariot carries an important person. He looks like the victorious Leader. He looks like a King. The king wears garlands. He grins ear to ear. I do not see his eyes. He has short white beard and hair. His eyes are covered with Sunglasses.”

“Lotus! Such sacredness! Which Age of India is that you see?”

“Maharaj, this is 2014” Sanjay smirked, “Maharaj, you must know it all before you judge an era to be Holy.”

“O Sanjay, things must have changed a lot in 5,000 years ... Go on, kindly elaborate, not more and not less, just enough for a blind me to comprehend, what has to be comprehended, understand what has to be understood, the joy of my generations living through and being developed into civilizations excites and fills my heart with joy. Please use your eyes wisely for my heart and soul.”

“Maharaj, the moment you ask me to use my eyes wisely, you modernize me to the length and breadth of our surviving posterity. It gets trickier as their moral fiber is complex and evolved yet vast population suffers with degraded moral ailments. Their obnoxious karma buries them deep down in the dungeon of hellish web of sufferings. They struggle a lot with their manipulative minds but get more trapped. This vicious cycle of karmas is prolonged and strong, swallows more and more victims with each passing day.”

“Hey, *Paramatma!* Sanjay, Where is *Krishna?*”

“Maharaj, Krishna exists in the heart of those who seek him. There are many Arjunas in Kalyuga; they are focused, bright, hard-working, loving, righteous young men who want to change the world. Their patience and connectivity



to Krishna tests the longevity of their characters; some of them give up and transform into Shakunis and Kauravas.”

Dhritarashtra sighed at Sanjay’s unapologetic jibe at his kith and kin. He had seen it all during Mahabharata age, now he would see it all in the age of Kalyuga. “Tell me Sanjay, is it a public Rally? Or is it a Dance?”

“It is both.”

“Tell me Sanjay, what do they celebrate?”

“They, who are the subjects, rejoice the victory of their King, white hair and beard, full of vigor and enthusiasm, he is known as Narendra Damodardas Modi. He goes on and takes a big stage. The noise of claps and cheers of his name are overwhelming to eardrums. I am getting goose bumps seeing his popularity.”

“What heartfelt loyalty in this deluded world! Hail the king and his citizens!” the overwhelmed Dhritarashtra got joy tears.

It was Sanjay who saw what was real.

“Maharaj! Now I shall reveal the full truth. It’s not what we see. I said popularity and not loyalty.”

And he enlightened the blind king to the extent of shock.

“The reality of many such parades is that majority of those who are seen rejoicing, mince on the free lunch and clap with the palms warmed up with doles and goodies. There are some who are genuinely ‘over-joyous’ as they hope to reap benefits from the newly elected ruler. Then we have journalists, many of whom are kind of story makers to keep the population entertained. They are here to take pictures and videos of the new Ruler celebrating his victory among the people. The stories of journalists are sometimes for exposure, sometimes for consideration, sometimes for direct benefits and sometimes, their stories are honest too. Journalism is a profession that could aid or puncture the democracy. The fact is, they may all cover the same event but write commentaries in different flavors.”

“This is all circus! Tell me about this elected ruler. I am curious. I am interested to understand his popularity, how is this achieved? For us, it was always about most suitable heir but our people remained loyal to us, irrespective of our popularity. How could this Narendra Modi be so overwhelmingly popular and still without loyalty? How can this work Sanjay? Unbelievable!”

“Maharaj, it’s indeed unbelievable for a normal eye but try to see what I see Maharaj; it’s not simple to understand but hear me out till the end to understand this Kalyuga Phenomena!”

“India has an interesting Majority–Minority religion-based equation and this leader’s popularity and election success is a series of strategies weaved together building up the perception of heroism to the majority segment of society. He has historic controversial events of his home state Gujarat to his name; while the opposition kept the controversy alive to appease minorities, Modi secretly became an apple of the eye of the majority community. During the elections, the old events recreated themselves in a small region of Uttar Pradesh and Bingo, perception followed by popularity followed by Election Victory.”

Sanjay continued, “Once a ruler gets elected, he no longer cares to maintain perception, people lose the grip of popularity soon after and begin to imagine alternative incumbencies. Hence, loyalty is out of question in Democracy; it’s a momentary wave of popularity that brings someone to power and then breaks down to fade away.”

“Sanjay, this paramount power of Democracy is indeed alluring! Do you infer that Democracy is so established in the country that anyone can become a ruler? How is it possible to execute Democracy in such a big nation? When you announce that people are not loyal to the elected ruler, how could someone not topple this non-dynastic ruler with some physical force? It’s such a huge population of 1.35 billion people, how could the machinery of democratic order really operate?” asked the blind Dhritarashtra.

“Maharaj, believe it or not, this is how the modern world breathes. Just like you, many modern scholars felt that this Democracy can’t survive in India but despite all odds, it did. Many scholars felt that India was a civilization and not a nation and couldn’t be governed under one umbrella, the time proved them all wrong. The nation has been conducting elections for almost seven decades now to choose its temporary rulers; all the three legs of Democracy i.e., the legislature, the judiciary and the executive are decently maintained.”

“What is this Democracy? Sanjay, please elaborate. The attributes of Democracy seem incomprehensible for my royal bent of mind. Is this elected commoner capable to rule? How could the general class, the poor masses, the ignorant and helpless decide who is good to rule them? India is vast, it’s impossible to believe that all population of India unanimously decides which ruler to choose from their own pool and not from dynasties and would that be successful? It seems unreasonable, illogical and unsettled!”

“Maharaj, it’s not direct Democracy, they don’t get to choose the ruler directly. It’s indirect Democracy. People choose a local representative. All the representatives get together and choose a leader, who rules. There is also federalism, which means, the people have a local ruler and a central ruler. The country is divided into states and union territories. Each state has its own government and own ruler called as Chief Minister.”

“Sanjay, does the modern India indeed provides equitable, generous and clean chance to its’ kingdoms to choose their ruler beyond dynasties?”

“Maharaj, it’s very fair as per the modern state of affairs because election is the only way to come to power ever since India got freedom from the Britishers. There are of course, aspects of dynastic Democracy those do exist, but it’s commendable how Democracy unbeatably prevails in such an asymmetrical, vast, disparate, unequal, unpredictable and humongous mass of civilization.”

“Maharaj, India had an era of good rulers and even good invaders who made India their home. The dynamics of castes and religions eroded the greatness of kingdoms, splitting them up and making India weak and so a new foreign enemy overpowered the whole civilization. These foreigners of whiter skin treated the subjects as slaves. Since no king could rise to protect the peasants, the dynasty era vanished eventually. The British were ruled by the queen but for India, they were the Exploiters and Kleptomaniacs. They robbed the country of its wealth, peace and equilibrium. They deepened the rifts between the various segments of population and rulers and destroyed the industry by adopting unfavorable and discriminatory policies. They levied heavy taxes on Indian farmers. They looted the raw materials and natural resources from India. They divided the manpower of the country as slaves, war soldiers and cultivators of poppy opium.”

“During the 200 years of agony, Britishers in their calculative, authoritative and educated manner of controlling the Indian population seeded the Modern Legal and Electoral System in India. They established courts and legal fraternity, documented the Law, appointed executives, introduced elections and print media. They laid the foundation for democratic India, whereas ironically, they, themselves remain the subjects of Queen till date and the state is under the reign of Monarchy.”

“Painful story of India’s struggle for independence indeed, now that India is on its own, many of the people possessing power in India are acting as crazy kleptomaniacs just like the foreigners.”

Dhritharashtra’s voice went deep with concern, “Tell me Sanjay, what do you see?”

Unimpressed Sanjay said, “Maharaj, the deepest concern of the country is that it’s always sabotaged by its own people. If it weren’t for the pilferers, such a vast population of India wouldn’t have been ruled by a handful of British. Even the modern democratic India has a vast history of scams hurting the nation’s economy and people. I would elaborate on that shortly.”

Dhritharashtra sighed deeply and expressed his inquisitiveness about the new Law and order of the Land, “Tell me Sanjay, what do you see about the new Dharma, or the Law of the Land? Is there a book?”

“The Constitution of India!”

“Does it have the entire Dharma mentioned?”

“Yes Maharaj! Just like our Manu-Smriti, India has methodically written ‘Constitution of India’, which is the Supreme Law, followed by other statutory Law Books like Penal Code, Civil Code, Property Law, Election Law etc. etc. There are thousands of laws operating in India now.”

Dhritharashtra smiled with a pride, “Is Dharma still above the King?”

“Yes Maharaj, you are right, the soul of India strives every moment and keeps the Law above everyone, even the rulers. There may be delay in Justice but no one can escape Law. Many such cases of Indian Judiciary prove this point. The reasoning, law and intent are all used to keep Law above everyone.”

“Whatever Sanjay, this is the best thing that you seen that tantalizes me! Such books are sure to be of reverence and high regard.”

“Maharaj, the Constitution of India and Representation of the People Act 1951 (RP Act) are the two primary law books fostering Democracy. The Constitution of India came into effect on January 26, 1950. Articles 81, 170, 324 establish the Election Commission to hold elections which is the base of Democracy. The Representation of the People Act, 1951 was laid down to define the Law and procedures related to Political Parties and conducting elections. Democracy is for the people, by the people and of the people; henceforth when we speak of it, election is the most prominent part of it. Elections in India take place on every level from Presidential Election to as low as a Panchayat or simple Block Election. Here is the legal elaboration.”

Articles 52 to 78 of the Constitution deal with the Central Executive. The President of the Union of India is elected by an electoral college that comprises of both the Houses of Parliament and State Legislative Assemblies. The authority to conduct the elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice President is vested in the Election Commission of India under Article 324 of the Indian Constitution.

The electoral system/process that is followed comes under Article 55(3), which states that the election of the President shall be held in accordance with the system of proportional representation by single transferable votes and it shall be done by a way of secret ballot. The qualifications to be the President are under Article 58 i.e., (a) Must be a citizen of India; (b) Must be at least 35 years of age; (c) Must be eligible to be a member of the Lok Sabha and (d) Should not hold any office of profit under the Government of India.

The notification calling election for the President is issued by the Election Commission, under the provisions of sub-section (3) of section 4 of the Presidential and Vice-Presidential Elections Act, 1952.

Under Article 63 there should be a Vice-President, who is also the ex-officio chairman of Rajya Sabha under Article 64. The Vice President is also elected by the same Electoral College. The election process falls under the same provisions as the President and that the same requisites are to be followed for its qualification.

Being the uppermost House of the country the Rajya Sabha where Article 80 of the Indian Constitution lays down the maximum number of strength as 250 Members of Parliament (MPs), elections takes place in an indirect form where the elected person is not directly elected by the people but by the members of the Houses. The requisites to be a member of the Rajya Sabha are stated under Article 84 and the disqualifications lie under article 102. Article 101 states that the no person can be a member of both the Houses or A House and a Legislature State. Articles 168–173 and Articles 190–192 contain similar provisions for composition, qualification, disqualification etc. for State Legislatures.

The Lok Sabha is the most popular and the most decorated house of India because it is directly elected by the people and has the most members comprising of 543 Members of Parliament (MPs) as stated under Article 81(1)(a), by a system of direct election from territorial constituencies based on adult suffrage, though the maximum strength may go up to 550 under Article 81. Additionally, up to 2 Anglo-Indians may be nominated by President under Article 331 to Lok Sabha. The qualifications and disqualifications provided for Rajya Sabha members under Article 84 and Article 102 shall apply to Lok Sabha members too. The quorum to constitute a sitting of Lok Sabha is one-tenth of the total strength under Article 100(3). The House can be terminated by an order of the President under Article 85(2)(a).

In a country comprising of 29 States, the State Legislative Assembly Election is as equally important as the Lok Sabha Elections; the Legislative Assemblies of the States pass and make laws for the benefit of the States and their upliftment. They are also known as Members of the Legislative Assembly (MLA). Also, some States such as Andhra Pradesh, Bihar, Maharashtra, Madhya Pradesh, Karnataka, Telengana and Uttar Pradesh have bicameral legislatures which comprises of the Legislative Council and Legislative Assembly under Article 168. Rest of the States have only Legislative Assemblies. Also, under Article 169(1) Parliament may abolish or create a Legislative Council, if the Legislative Assembly passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting. The Legislative Assembly being the popular chamber of the two Houses, the election proceeding is done in the same manner as Lok Sabha i.e., directly elected from the territorial constituencies on the basis of Adult Franchise. Article 326 prescribes qualification and disqualification of a voter. The number of the Legislative Assembly members can extend from 60 to 500 at the maximum under Article 170(1). The qualifications and disqualifications fall under Article 173 and 191. A person shall not be qualified unless he, in case of a seat in the Legislative Assembly, more than 25 years of age, and in case of a Legislative Council, not less than 35 years of age under Article 173(b). The Governor is empowered to

decide on disqualification of a member of a House of Legislature of a State under Article 192.

By way of Seventy-Third Amendment in 1992, Village Panchayats were introduced in the constitutional scheme to strengthen the democratic system in rural areas and to make Village Panchayat strong and a vocal unit of the Government. Therefore, Part IX was added to the Constitution consisting of Article 243 to 243-O. Article 243 C(2) states that there will be a Direct Election by the electorate from territorial constituencies in the Respective Panchayat Area. Under Article 243A a Gram Sabha is constituted to exercise such powers and perform functions at a village level provided by State Legislature.

There are various Laws which are relevant to Elections and Democracy in India. The Constitution of India defines the basic structure of Democracy in India and key points of Democracy come from the Constitution such as Preamble, explanation of the constitutional Structures of India, Recognition of Citizens, their Fundamental Rights and Duties, Role of President, Role of Prime Minister and Cabinet Ministers, Constitution of the Houses of Parliament and their operations, Procedure to pass the law, defined spaces of Central and State Governments and their operations, Establishment of Election Commission, Directive Principles, the Judiciary and Executive and well defined Business of Government.

The Representation of People Act, 1950 features qualification of voters, preparation of electoral rolls, delimitation of constituencies, allocation of seats in the Parliament and State Legislatures.

The Representation of People Act, 1951 defines the procedure of Elections, formation and functioning of political parties and elaborates the power of Election Commission. Conducting of elections in the country is one of the most important and primary functions of the Election Commission, which directs and controls the preparation of the electoral rolls and conduct of Elections to Parliament and Legislature of every State and also elections of the President and Vice president. Administrative machinery for conducting elections or the electoral machinery in each State and Union Territory is headed by a Chief Electoral Officer. The Chief Electoral Officer is nominated or a designated officer of the Government of the State/Union Territory, in consultation with the Central/State Government. The District Election Officer is another machinery for conducting of Elections of the State Government. Election Commission would nominate Observers who shall be officers of Government to watch the conduct of the election. The Election Commission would also nominate a Returning Officer for each of the Assembly and Parliamentary Constituencies in consultation with the State Government. The District Election Officer has the power to appoint a Presiding Officer for each polling station. The Polling Officer who basically must perform or all any of the functions of the presiding officer comes last.

Poll is the most prominent and vital stage in the Electoral process. A polling day is a Holiday, because one must exercise their right to vote. Each Candidate may appoint three polling agents for stations in the Constituency. Another

important and essential factor for polling is the Voter Verifiable Paper Audit Trail (VVPAT), which is a method for providing feedback to voters, who vote using a ballot-less Electronic Voting Machine (EVM). For a Democracy to survive, the rule of law must prevail. So, the best candidate is to be elected and Corrupt Practices at elections are necessary to be avoided. The Corrupt Practices are provided under Section 123 of the RP Act, 1951 along with few offences falling under sections of Indian Penal Code. Apart from this, in any Election Dispute, which may arise out of any election including the conduct of elections, ordinary civil courts are barred to interference. Questions of pre-election and post-election disqualification of sitting Members of Parliament and State legislatures would also fall under Election Disputes category. Then, By-elections are those elections which are conducted again in a constituency due to some reasons like, death, an MP later becoming a Chief Minister, or an MLA become a member of the Rajya Sabha etc. The requirements for the Registration of a political party are provided under section 29A of the RP Act 1951. Elector is a person whose name is on the electoral list. Just a voter ID may not suffice a person to vote, because the name should be on the Electoral list. Maharaj, though this Act contains provisions for preventing criminals from being elected as elected representatives; the reality is far from such and more and more criminals are coming in election fray. To reduce the number of criminals coming in Parliament, the Supreme Court struck down Section 8(4) of RP Act which laid that a lawmaker whose conviction in a criminal case has not been stayed at appellate court, would stand disqualified from the membership of the House and gave a convicted lawmaker the power to remain in office on the ground that appeals have been filled within three months of conviction. The Apex court also held that charge-sheeted MPs and MLAs on conviction for offences will be immediately disqualified from holding the membership of the House. Under Section 62 of RP Act, 1951 every person who is for the time being entered in the electoral roll of the constituency shall be entitled to vote in that constituency. The Representation of the People (Amendment) Act, 2017 allows proxy voting and makes certain provisions of the Acts gender-neutral by permitting an overseas voter to cast vote in person or by proxy in the constituency where the poll is taken. The 1951 Act provides for the wife of a person holding a service qualification to vote. The Bill replaces the term “wife” with “spouse.” This was done in the light on comments made by the Law minister because of the Complaints made by the NRIs that they don't get the right to vote in India. The Representation of the People (Amendment) Act, 2008 bans conducting of exit polls and publishing these results from the time the polls start until all phases of the election are completed. Candidates are prohibited from seeking assistance from government employees to further their candidacy. The Representation of the People (Amendment) Act, 2006 expanded the definition of “ordinarily resident” to include any person who is away from his residence, temporarily or otherwise, for employment, education or any other purpose.

In a recent landmark judgment, preserving and upholding Democracy under the Constitution of India, a Constitution Bench of Supreme Court, in Government

of *NCT of Delhi v. Union of India & Ors*¹ (2018), interpreted complexity of Article 239AA of the Constitution and gave purposive interpretation because Supreme Court is concerned with sustenance of glory of constitutional democracy in a Democratic Republic and held that Lieutenant-General (LG) of Delhi has to act as per aid and advise of Council of Ministers of the Delhi Government, except in matters of land, police and public order and he cannot interfere in each and every decision of Delhi Government; although decisions of the Government shall have to be communicated to him, there would be no need to obtain concurrence of LG in all matters. Supreme Court further held that Delhi was not a State and bears a special status under the Constitution of India. The Supreme Court further held that Representative form of government should not become a government by elites where representatives so elected do nothing to give effect to the will of sovereign. Elected representatives must not have an ulterior motive for representing their constituents and they should not misuse popular mandate awarded to them by covertly transforming it into “own rule.” The inherent value of public accountability can never be brushed aside.

In *Mohinder Singh Gill and Anr. v. Chief Election Commissioner, New Delhi and Ors*² (1978), Supreme Court Justice Krishna Iyer quoted with approval the statement of Sir Winston Churchill, “At the bottom of all tributes paid to democracy is a little man, walking into a little booth, with a little pencil, making a little cross on a little bit of paper—no amount of rhetoric or voluminous discussion can possibly diminish overwhelming importance of the point.”

In *Raghubir Singh Gill v. S. Gurcharan Singh Tohra*³ (1980), Supreme Court held, “Nothing can diminish overwhelming importance of cross or preference indicated by dumb sealed lip voter. That is his right and trust reposed by Constitution in him, he will act as a responsible citizen choosing his masters for governing country.”

The Constitution of India embraced representative model of governance at all levels i.e. Local, State and Union. Acknowledging it, the Supreme Court in *State of Bihar and Anr. v. Bal Mukund Sah and Ors*⁴ (2000) held, “Besides providing a quasi-federal system in country and envisaging scheme for distribution of legislative powers between State and Center, it emphasizes establishment of Rule of law.”

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1. *Government of NCT of Delhi v. Union of India & Ors*, MANU/SC/0680/2018.
 2. *Mohinder Singh Gill and Anr. v. Chief Election Commissioner, New Delhi and Ors*, AIR 1978 SC 851: (1978) 1 SCC 405.
 3. *Raghubir Singh Gill v. S. Gurcharan Singh Tohra*, AIR 1980 SC 1362: (1980) 3 SCR 1302.
 4. *State of Bihar and Anr. v. Bal Mukund Sah and Ors*, (2000) 4 SCC 640.

CHAPTER 2

THE LAWLESSNESS

Democracy Feasts on the Concoction of Commotion!

Sanjay joined hands for Krishna and recited his *shloka*.

प्रवृत्तिं च निवृत्तिं च जना न विदुरासुराः ।
न शौचं नापि चाचारो न सत्यं तेषु विद्यते ॥ 7॥

pravṛtṭim̐ cha nivṛtṭim̐ cha janā na vidur āsurāḥ
na śhauchaṁ nāpi chāchāro na satyaṁ teṣhu vidyate

—Krishna to Arjuna- Chapter 16, text 7, Shrimad Bhagavad Gita

Meaning:

Those possessing a demoniac nature do not comprehend what actions are proper and what are improper. Hence, they possess neither purity, nor good conduct, nor even truthfulness.

Explanation:

Dharma consists of codes of conduct that are conducive to one's purification and the general welfare of all living beings. Adharma consists of prohibited actions that lead to degradation and cause harm to society. The demoniac nature is devoid of faith in the knowledge and wisdom of the scriptures. Hence, those under its sway are confused about what is right and wrong action.

“Sanjay, I feel deeply obliged that you cued me with the frame of mind I should be equipped with to understand the Democratic functioning with these words of Krishna. I wouldn't assume righteousness from the involved actors,” Dhritarashtra fluttered his eyes in abeyance.

“Yes Maharaj, it's just a little shock-absorber for your weak heart, now let me peek into this era of Democracy where the muffled bystander commoners are endowed with the legitimacy to cast their ballots.”

While Dhritarashtra waited for Sanjay's words, Sanjay observed the voting process, the first voter Shyam Saran Negi of India who cast his vote in 1951. He moved ahead with time and saw the usage of paper ballots maturing to Electronic Voting Machines during elections and also the violations. At one

place, he observed the dedication of the few polling officers as they got into a van early morning to head for a polling station. There was a stoic silence. Sanjay sensed them to be dreading against something although there was no reason for the same in the democratic, free India.

Sanjay spotted the presiding officer of the Polling Booth, who utilized the travel time going through the Handbook. It was a big day for the upright, ethical, hardworking, honest Arjuna. He was determined to live up to the day as per his conscience.

They arrived at the place where the polling station was to be set up. Arjuna along with other polling agents set up the polling booth. Arjuna examined the booth for readiness. After everything was setup, he looked at his watch, 6:30 am. It was still half an hour before the polling had to be started. It was a Government School's building that was used for polling. He looked at the handbook that said "that there is enough space for the voters to wait outside the polling station; and given the space and vicinity, there was only space and no people." Arjuna smirked, he did all he had to. He shrugged and waited.

"Tell me Sanjay, what do you see?"

"Maharaj, I see the most interesting event of the democratic world. I am witnessing a Polling Booth, where citizens would pour in to participate in Democracy by casting their votes."

At the onset of 7.00 am, a group of old men approached the booth, and Arjuna smiled and went inside; the honor and the work of his Role had started.

Sanjay watched the enthusiasm of polling agents, handing over the fresh ballots for the casting of votes turn by turn to the voters. The voters maintained the queue flashing their voter cards, peacefully following the process of confirming their identity, getting their left index finger inked and walking up to the corner behind the makeshift hideout, they pressed the Button for the candidate of their choice.

Sanjay smiled, as he saw them pressing the button. The "click" followed by the "beep" was the voice of democracy; overwhelmingly Sanjay wanted to talk about the oozing notion of Democracy to Maharaj, then he heard sound of firearms, the polling agents were startled. They opened fire at the roof spreading some ceiling debris. "*Ye ab hamara adda hai* (This is our place now)." They instructed everyone to continue with their work. One of them stood near the EVM, the voters walked up to the point of getting inked; thereafter, the masked guy pressed the button on their behalf.

Sanjay explained booth capturing to Maharaj.

"What is Arjuna doing? Tell me Sanjay, I am curious."

“Maharaj, Arjuna is thinking. His conscience has no acceptability for his inaction. He knows if he collided with the gun man, he might die, the booth capturing would still continue. He decided to look shocked, docile and non-reactive. He is witnessing what he shouldn't but he is just Arjuna, he doesn't control the events. He doesn't know the unknown. He is human with a good heart and sharp brain. He is thinking of Krishna. He needs to act with something that works with the system.”

“Arjuna stays non-responsive then, how beguiling!”

“Indeed Maharaj, staying non-responsive is not a no-work, it's a hard work to control impulses. He is planning to use his weapon, the weapon of Kalyuga, his smart phone.”

“What kind of new weapon is this Sanjay, never heard of it!”

“Maharaj, this is the biggest weapon of Kalyuga, this is used to win wars.” Sanjay laughed

As Arjuna's innocuous attitude made him uninteresting, the thugs lost interest in his presence and rushed up for their act. Arjuna took out his small phone and began filming the booth capturing scene. When the video was recorded enough, he immediately forwarded it to Election Commission's contact person and a Media Journalist.

“Sanjay, how does this weapon work?”

“It's a matter of brain and awareness of power one may believe in. A smart-phone is a lot of power, if one knows how and for what purpose to use it, just like bow and arrow, swords and other weapons of our time. The weapon may be same, but some are winners using it and others are not! The video of booth capturing went viral in a little while; the Election Commission announced the Polling of the Area as Null and Void and Re-election was declared. Hail Arjuna! Maharaj, let me mention to you that Election Commission of India has grievance redressal process...”

The Election Commission launched a new eVigil Application in 2019 where a video or picture of lawlessness can be uploaded anonymously to report election fraud. The Commission also has a toll-free number, 1800111950, which can be accessed in English or Hindi with any query or complaint at any time of the day. Callers can enquire on subjects such as elections, voting dates, EPIC, electoral roll, online registration and lodge a complaint by simply dialing into the toll-free number. The Integrated Contact Centre is operated on a National Grievance Redressal System Software. This software is a single window platform to manage complaints and feedback received through calls, emails, SMS and website access in an integrated and time-bound manner. Callers may connect with the executives

to register a complaint and know about its status of receipt and disposal as well as to give suggestions and feedback at every step of the way.

Each state and UT had set up and operationalized dedicated State Contact Centre (SCC) and District Contact Centre (DCC) to ensure seamless flow of information across the contact centers for handling issues/ query from citizens. National Contact Centre (NCC) has the IT protocols to ensure that any call landing at NCC is properly redirected to the respective SCC.

SCC functions during working hours and working days of the state with a dedicated IT & communication structure. They have translated all the documents available at NCC in the respective regional languages. SCC will continue to take direct calls from citizens in all regional language of the state in their respective toll-free numbers and all redirected calls from the NCC in English and Hindi. SCC only uses National Grievance Redressal System software to lodge all Grievances.

Each District has dedicated official at the District level to respond to any queries emanating from NCC and/or SCC. Suitable Deputy District Election Officer (Dy. DEO) is to be nominated by District Election Officer (DEO) as the DCC with requisite IT and communications facilities. All information to NCC and SCC pertaining to that District including grievances disposal status will henceforth be provided by DCC.

With operationalization of Integrated Contact Centre, ECI is able to provide multilingual support to all the citizens across the nation in a decentralized and integrated manner. Election Commission has set up the NCC in Delhi and SCC in all the State/UT Capitals. Information, Suggestion, Feedback and Complaint (IFSC) is as simple as making a call. The National Contact Centre Toll-Free number is 1950. National Contact Centre is operational between 8 am and 8 pm on all working days and serves all stakeholders like Citizens, Electors, Political parties, Candidates, Media and Election officials for obtaining information, giving feedback, suggestions and for knowing the status of complaints. For grievances and complaints, the website is <https://eci-citizenservices.eci.nic.in/default.aspx>.

“But Maharaj, the above information is merely provided on the website of Election Commission and it has failed to properly circulate this information in public domain and so large number of elections related incidents, malpractices and misconduct goes unreported by the public.”

“Sanjay, I hope this was the one odd incident of Electoral Process molestation.”

And a loud laugh of Sanjay followed dissuading Maharaja’s joviality, “Maharaj, this country is massively big, discreet, with 1.3 billion population speaking 22 languages living in 29 States and 7 Union Territories. There are more than a million Polling Stations under different incomprehensible circumstances for the citizens to cast their votes, many booth-capturing, rioting, vandalizing incidents are reported, let me take you through a few of such incidents”

In the State of West Bengal (2014)¹

Poll violence has claimed several lives in West Bengal and left 740 persons injured in 825 incidents, according to Election Commission sources. The incidents of violence were either attack on the election personnel by activists of a political party or clash between two major political parties in the state. In the state of West Bengal it was reported that a huge quantity of illegal arms, weapons and cartridges were seized. The Income Tax department seized about Rs 7.09 crore unaccounted cash, in several cases. Smuggled gold worth Rs 2.82 crore was also seized. The Excise department seized over four lakh bulk liters of illicit liquor valued at Rs 3.45 crore. Similarly, it is important to note that in West Bengal in the run-up to the 2014 Lok Sabha elections, there were 14 instances of political killings and 1,166 incidents of violence and with passing of years figures have increased.

In the State of Bihar (2014)²

Polling for six Lok Sabha seats in Bihar started under the shadow of violence as Maoists killed two CRPF jawans and injured seven others when they were on their way to polling stations of Jamui constituency in Munger district. The dead CRPF personnel have been identified as head constable Ravindra Rai and constable Sone Gora; their bodies have been kept at Kharagpur police station. It was reported that another seven injured have been rushed to Bhagalpur hospital.

In the State of Assam (2014)³

Polling was stopped in five polling booths in Assam after violence in Kokrajhar Parliamentary constituency left a policeman dead and one injured. Officials said a Border Security Force (BSF) platoon deployed in village Balapra and Harbhanga for poll security duties opened fire to save election officials and police personnel after a group of 40 people tried to capture a booth.

In the State of Rajasthan (2014)

Violence was also reported in Dausa in Rajasthan where a mob of 50 people tried to enter a polling booth in Satha, leading to the ITBP opening 14 rounds of fire in the air. Five persons including four photojournalists were injured in Dausa when irate villagers clashed with security forces.

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1. <https://economictimes.indiatimes.com/news/politics-and-nation/lok-sabha-elections-2014-poll-violence-in-west-bengal-claims-seven-lives-740-injured/articleshow/34497287.cms> (accessed Feb, 2019).
 2. [//economictimes.indiatimes.com/articleshow/33542195.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst](https://economictimes.indiatimes.com/articleshow/33542195.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) (accessed Feb, 2019).
 3. <https://economictimes.indiatimes.com/news/politics-and-nation/lok-sabha-polls-2014-40-per-cent-polling-recorded-violence-in-some-states/articleshow/34160003.cms> (accessed Feb, 2019).

In the State of Uttar Pradesh (2014)

Three persons were injured following a clash between RLD and BJP supporters in Daulatpur village in Mathura. Both sides opened fire and indulged in brick batting, police said.

In the State of Jharkhand (2014)

Four Congress workers were injured in a clash with supporters of the Marxist Coordination Committee during polling in Dhanbad Lok Sabha constituency. An estimated 28.03% polling was registered in the initial hours in four Lok Sabha constituencies of Jharkhand.

In the State of J&K (2014)⁴

Series of violence took place in J&K during 2014 Lok Sabha election in various district of J&K in various forms. Militant Violence, Separatist influenced Violence and Stone Pelting remain the main cause of violence in the State. Militants targeted sarpanches; a PDP sarpanch, Muhammad Amin Pandit was shot in Pulwama district and this incident spread a wave of fear. Militants gathered around in Tral area, threatening posters were pasted across South Kashmir, ranging from an easy request to stay away from polls to paying the price for being an “Indian traitor.” Officials returning with EVM in Shopian district were thrown stones by crew of militants. Many officers on duty were killed. In separatists’ violence, on polling day, clashes took place between violent protestors and police and created hardship for voters to vote. In mob violence incidents, stone pelting began the day when polls were conducted. By noon, many youngsters started to pelt stones as pro-freedom songs played on loud speakers. The protestors smashed the windowpanes of buses once used for poll duty. In Pulwama, angry adolescents sang pro-freedom slogans and endured with stone pelting. The mob grew aggressive in many areas attacking polling team of workers and the police, which finally led to retaliatory shots fired by the police to disperse the indignant crowds. Even dignitaries faced protestor’s anger as Parliament member G.N. Ratanpuri’s convoy was attacked with stones. The day of the polling saw heavy stone pelting in Anantnag and close by areas in the district. Many security personnel additionally sustained injuries due to these clashes in the district. An incident of stone pelting was also reported at a booth in Anantnag Parliamentary seat in south Kashmir, which had witnessed an attack on political workers recently.

Law to Curb Booth Capturing

Rachiyari, the site of Bihar’s first booth capture or one of India’s first in 1957 polls, still carries the tradition. Therefore, nowadays they call it booth management instead of calling it a booth capture. During the old times, the local people had captured booth at Kachhari Tola of Rachiyari village in favor of Saryoug Prasad Singh. Veteran communist leader Chandrashekhhar Singh was elected for

4. https://idsa.in/system/files/backgrounder/Backgrounder_deepshikhahodda250914.pdf (accessed Feb, 2019)

the first time from here.⁵ From at this point of time booth capturing became a habit or mega military operations to be precise which spread all over and was later used by the political parties for political gains.

Originally booth capturing did not figure under the categories of corrupt practices listed under Section 123 of the Representation of People Act, 1951. It was only in 1989 that the Parliament added Booth Capturing by a candidate or his agent or other person as one of the eight categories of corrupt practices.

Section 58 prescribes fresh poll in the case of destruction of ballot boxes where the ballot box is unlawfully removed from the custody of presiding or returning officer or destroyed or any such error or irregularity in procedure as it is likely to vitiate the poll, forthwith report to Election Commission and EC after taking all material circumstances into account, either declare to be void and conduct fresh election or if the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

Section 58A provides for adjournment of poll or countermanding of election on the ground of booth capturing. If at any election the booth capturing has taken place at a polling station, then, on the basis of report if found as such, EC can either declare it to be void and order for fresh poll or if many places are involved in booth capturing and the result of the election is likely to be affected, can countermand the election in that constituency. The explanation of section 58A of the Representation of People's Act 1951 lays down that booth capturing shall have the same meaning as laid down in Section 135A of the Representation of People's Act, the same lays down that booth capturing is a punishable offense with an imprisonment of no less than 6 months which may be extended to a maximum of two years and a fine.

Section 131 provides for Penalty for disorderly conduct in or near polling stations and states, if any person on the date of poll at polling station through his act disturbed or attempt to disturbed the poll, then the returning officer may instruct the police officer to arrest such person who shall be punishable with imprisonment that may extend up to 3 months or fine or both. Also police officer may use force to reasonably necessary for preventing any contravention of the provisions of subsection (1), and may seize any apparatus used for such contravention. **Section 49X of Conduct of Election Rule, 1961 provides for** Closing of voting machine in case of booth capturing and states if presiding officer found any circumstances or of opinion that the booth capturing is taking place at polling station or at a place fixed for the poll, then he shall immediately close the control unit of the voting machine.

In the first judicial pronouncement on booth capturing the Supreme Court in *Basanagouda v. S.B. Amarkhed*⁶ (1992), it was observed, "there have been various

5. <https://timesofindia.indiatimes.com/city/patna/Where-booth-capturing-was-born/articleshow/1020435.cms> (accessed February 2019).

6. *Basanagouda v. S.B. Amarkhed*, AIR 1992 SC1163: 1992 (2) SCR 397.

complaints regarding booth capturing. The tendency to over-awe the weaker section of the society and to physically take over the polling booth meant for them is on the increase. Political Violence in India is a recent phenomenon. One important factor for this is politicians' hunger to somehow stay in power or overthrow the center of power by foul means, which ultimately leads to criminalization of politics." It has thus rightly been said that Indian politics is fast becoming the last refuge of criminals. As quoted by Nani Palkhivala an eminent jurist and an economist, "unless the rapid criminalization of politics is put an end to there is a very real threat of military takeover."

Apparently on the questions of booth capturing, the proposals of the Goswami Committee (May, 1990) to the effect that the Election Commission should be empowered to take more stringent action should be accepted and implemented in full. All officers accountable to the Election Commission of India are liable to send the reports to the Election Commission in respect of booth capturing under the wide interpretation of Representation of People's Act and also the commission is authorized to issue appropriate directions of countermanding the elections. The other proposals of the committee are as follows:

Under section 58A of the Act, the Election Commission should not only be empowered to countermand the election and order a fresh election as now provided under the law, but also should be empowered to declare the earlier poll to be void and order only a re-poll in the entire constituency, instead of a re-election there, depending on the nature and seriousness of each case.⁷

Election Commission may also be empowered to initiate investigations of booth capturing and other violations of the electoral law through the Central or State police investigating agency and/or by the establishment of special courts and/or by appointment of public prosecutors.

"Oh Sanjay, you have burdened me heavily with this knowledge, now you must endeavor for my respite."

"O Maharaj" he bowed with folded hands, "I am a humble and straight forward servant, I am responsible to feed you the visions as I see. I have humbly looked for your comfort in the statistics calculated by Dr. N. Bhaskar Rao that although with the paper ballots the reported booth capturing incidents were around 10%, with the usage of Electronic Voting Machines, the incidents have fallen down to 1%.⁸ Smile Maharaj!"

And the blind King simpered.

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7. Goswami Committee Report dated May, 1990 available at <https://adrindia.org/sites/default/files/Dinesh%20Goswami%20Report%20on%20Electoral%20Reforms.pdf> (accessed Feb, 2019)
 8. https://www.business-standard.com/article/economy-policy/booth-capturing-is-history-now-thanks-to-evms-109082503018_1.html (accessed Feb, 2019).

CHAPTER 3

PARTY OF THE POLITICAL PARTIES

Political Parties: Non-Democrats of Democracy!

“Sanjay, what is democracy?”

“Maharaj, democracy in simple terms means, Government for the people, formed by the people. You would feel proud to know that our country India is the largest democracy of the world.”

“I am indeed elated that India continued its legacy of Aryan Civilization to be doubtlessly ahead of the other world in fairness, equality and compassion. I am excited that democracy works in India and any one of good capabilities and popularity from the civilians can rise to become the ruler.”

“Maharaj, I wish it was that simple! If we look closely, it’s a pseudo democracy, it’s not the rule of people, it’s the rule of skilled politicians or political parties. The ruler has to be a skilled person commanding public opinions, managing his political party, utilizing available resources and be a master at winning elections. This person focuses on re-winning the elections after his term is over. The civilians usually go through the periods of helplessness and play barking dogs with negligible control on Government.”

“Shocking, such a situation of people in democratic rule! Tell me more Sanjay, what do you mean by Political Party?”

“Maharaj, a group of politicians working together under one flag to win the election is a political party. Take them as prospective rulers, fighting for the ruling seat, they do their best to regain their rule or against the ruling party to throw them out of power and gain their own rule. It’s a slightly different game, without the open bloodsheds and wars. Its political games, strategies, perception and winning in the election.”

“Are you saying, Kalyuga has no gory wars like our era?”

“Maharaj, Kalyuga has nuclear bomb that can finish cities with a blink. Let’s not touch that topic here, let us stay inside the borders of India, let’s discuss democracy and elections. This is true; the rulers have their soldiers, called as party workers, who do not kill other party workers with weapons but with words on TV debates and use strategies to make opponents lose their public

images and subsequently, election. If there was democracy in our era, both Kauravas and Pandavas could have their own political parties and contested election every five years for the position of ruler. That way at least, we could have avoided Mahabharata within our borders and kept our soldiers alive to fight external invasions.”

“Sounds a lot more peaceful, so I know, my heart feels elated and placid.”

“Yes Maharaj, there is supposed to be no bloodbath in democracy but battles are cerebral and complicated!”

“Oh, so you mean a ruler has its soldiers under his flag, they fight with democratic weapons to win elections”

“Indeed Maharaj” Sanjay joined his palms in reverence and bowed his head. Maharaja’s understanding was preciously crystallized, the weapons were modern and democratic.

“I would elaborate about these democratic weapons in detail Maharaj; firstly, please understand the function and importance of political parties in the democracy. Maharaj, political parties are the kingdom on their own; they have hierarchy and administration as a Government. Out of power or in the power, all political parties are powerful because they have a ‘Power Circuit,’ because they are definitely connected through someone in power.”

“Interesting! Very Interesting. I understand the political cult and their stirrings and notions to overpower one another, yet they stay in the most incongruously decorous union. Yes Sanjay, all political parties party together in politics.”

“Yes Maharaj, indeed you shall know it better than me! Any political party would not bring any law that puts them all at jeopardy and also they wouldn’t do anything that exposes all of them together. Only parties can compete with each other in democracy because they are the only ones equipped with democratic weapons and presence. An individual, can or may, contest a seat and win election from the local area but when it comes to Parliament or Legislature Houses, he would be only limited to a *single* vote. Parties with lot of members can only hold the ground in the Houses.”

“Sanjay, you shouldn’t offer lullaby when you do not intend to play it. Just when I felt the placidness that the virtuous can cast their way to crown, you revealed Political Party! Should I discard hope for a righteous commoner to rise from the population and be a ruler? Show me some hope, Sanjay.”

“Maharaj, in democracy, if one has the spark and grit, one can rise from a foot soldier to king but he has to grow inside a political party. The legislative houses are temporary but the political parties can stay forever. Let me tell you, a tea stall boy, joined Rashtriya Swayamsewak Sangh (RSS), a Hindu Nationalist Volunteer Organization, as a *worker* in 1971 and after fifteen years

impressed by his dedication, hard work, management and result-oriented approach, he was moved as General Secretary of Gujarat Unit of Bharatiya Janata Party (BJP), which is a political party in India associated with the RSS. He organized and accompanied the then BJP president Murli Manohar Joshi on the Kanyakumari–Srinagar Ekta Yatra in 1991. In 1995, he was playing important roles in the political party i.e. BJP. Three years later he was National General Secretary of this party, followed by becoming the ruling person of the Gujarat State in 2001 which he retained for three consecutive elections. Now Maharaj, winning three times means the person is a skilled politician and has mastered the art of elections. The party eventually declared him as their candidate for the topmost ruling position of India i.e., Prime Minister of India. This person, eventually, won, and became the Prime Minister of India. World calls him Modi.”

“That’s miraculous Sanjay, in our times, this wasn’t even dreamt of. Look at Karna, he could never become a King. Is Modi the only one who rose to such success or there are more?”

“Maharaj, it’s not enough to be good and intelligent to rise up in the political party. One should be a politician enough to grow in a political party. The game of coming to power and losing it, goes on and on, what stays is the political party. A party can lose elections, but it cannot die so easily, the clan and its skilled force, keeps it going.”

“Very nice, so someone can join a political party as a member and work hard, climb up the ladder, be their political leader and ultimately become the ruler i.e., prime minister of the country!”

“Maharaj,” laughed Sanjay, “there are many members in a party but specially in a dynastic political party, it’s much tougher to rise to the peak. I would soon elaborate on it, Maharaj. Most party members have numbers to show strength, to shape up the political wave. After winning the general election in 2014 the Bharatiya Janata Party kicked off a campaign where even the school teachers were asked to make as many members as possible. The propaganda was so audacious, that they influenced people to dial a number that registered them as party members without their consent! BJP got around 11 million members with their Maha-Sampark Abhiyan. But it meant nothing. It’s just a number. In a different way, at times there are party volunteers who act on their own because they are made to believe in certain ideologies but political parties do not value them. During the Anna Movement of 2011, lot of citizens left their jobs to work as volunteers but their services were used to raise another political party called Aam Aadmi Party (AAP); unfortunately, these active members meant nothing to AAP.”

“You sound like political parties are the Supreme Power? Isn’t this undemocratic?”

“Maharaj, you got the crux” he bowed his head. “But we do have opportunists, hopping parties for shopping for their interests until the Anti-Defection Law came into force in 1985 prescribing conditions for changing parties by legislators.”

“Do they have political party defined as per their law books?”

“Yes Maharaj, we have Representation of the People Act, 1951. The Section 29A–29C of this act has laws laid for registering a political party. Besides that our country has a separate pillar of Judiciary that also identifies the position of political parties. The Supreme Court has dilated upon the significance of the party system in several cases.”

“Good Sanjay, if we had a political party here, it could have named as Kauravas, isn’t it. We already had it, though not registered!” Maharaja joked.

“Maharaj, I wonder what could have been your party symbol? The Game of Dice?”

Maharaja smirked at Sanjay’s cunning sneer.

Then Sanjay goes on to explain the difference between various types of political parties, their formation. He explains as to how, as per Election Commission’s release in the Press Information Bureau titled “Dynamics of Elevation of Political Parties to State or National Parties” dated March 8, 2014¹, the Representation of People Act, 1951 and Election Symbols (Reservation & Allotment) Order 1968, parties get tag of National or State Parties. He also tells him the names of numerous successful politicians from non-political background who have risen in Indian Democracy, showing that India is a land of opportunity. He also provides details of important laws relating to political parties.

National Political Parties

A registered party is recognized as a national party only if it fulfills any one of the following three conditions:

1. If a party wins 2% of seats in the Lok Sabha (as of 2014, 11 seats) from at least 3 different States.
2. At a General Election to Lok Sabha or Legislative Assembly, the party polls 6% of votes in four States in addition to 4 Lok Sabha seats.
3. A party is recognized as a State Party in four or more States.

1. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=104537> (Accessed Feb, 2019)

TABLE 4 LIST OF THE NATIONAL PARTIES IN INDIA

S. No.	Name	Abbreviation	Foundation Year
1.	Indian National Congress	INC	1885
2.	Bharatiya Janata Party	BJP	1980
3.	Communist Party of India (Marxist)	CPI-M	1964
4.	Communist Party of India	CPI	1925
5.	Bahujan Samaj Party	BSP	1984
6.	Nationalist Congress Party	NCP	1999
7.	All India Trinamool Congress	TMC	1998

State Political Parties:

There are 48 State recognized political parties registered with Election Commission of India. There are 2044 State unrecognized political parties registered with Election Commission of India. A registered party has to fulfill any of the following conditions to be known as recognized State political party:

1. A party should win minimum 3% of the total number of seats or a minimum of three seats in the Legislative Assembly.
2. A party should win at least one seat in the Lok Sabha for every twenty-five seats or any fraction thereof allotted to that State.
3. A political party should secure at least 6% of the total valid votes polled during general election to a Lok Sabha or State Legislative Assembly and should, in addition, win at least one Lok Sabha and two Legislative Assembly seats in that election.
4. Even if a party fails to win any seat in a State in a general election to the Lok Sabha or Legislative Assembly of the State, the party will still be eligible for recognition as State Party if it secures 8% or more of the total valid votes polled in the State. (Refer to Table 5 & 6)

Glimpse of Laws Governing the Political Parties**The Constitution of India**

The constitutional law states that an MP/MLA belonging to a party would be disqualified if he “votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorized by it in this behalf.”

The constitutional law states that an MP/MLA belonging to a party would be disqualified if he “votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorized by it in this behalf.” An elected member of a House shall be deemed to belong to the political party, if any, through which he was once set up as a candidate for election as member. The place from where he is a member of any

TABLE 5 LIST OF RECOGNIZED STATE POLITICAL PARTIES¹

S. No.	Name	Abbreviation	Foundation Year	States/UT
1.	Aam Aadmi Party	AAP	2012	Delhi, Punjab
2.	All India Anna Dravida Munnetra Kazhagam	AIADMK	1972	Puducherry, Tamil Nadu
3.	All India Forward Bloc	AIFB	1939	West Bengal
4.	All India Majlis-e-Ittehadul Muslimeen	AIMIM	1927	Telangana
5.	All India N.R. Congress	AINRC	2011	Puducherry
6.	All India United Democratic Front	AIUDF	2004	Assam
7.	All Jharkhand Students Union	AJSU	1986	Jharkhand
8.	Asom Gana Parishad	AGP	1985	Assam
9.	Biju Janata Dal	BJD	1997	Odisha
10.	Bodoland People's Front	BPF	1985	Assam
11.	Desiya Murpokku Dravidar Kazhagam	DMDK	2005	Tamil Nadu
12.	Dravida Munnetra Kazhagam	DMK	1949	Puducherry, Tamil Nadu
13.	Haryana Janhit Congress (BL)	HJC(BL)	2007	Haryana
14.	Hill State People's Democratic Party	HSPDP	1968	Meghalaya
15.	Indian National Lok Dal	INLD	1999	Haryana
16.	Indian Union Muslim League	IUML	1948	Kerala
17.	Jammu & Kashmir National Conference	JKNC	1932	Jammu & Kashmir
18.	Jammu & Kashmir National Panthers Party	JKNPP	1982	Jammu & Kashmir
19.	Jammu and Kashmir People's Democratic Party	JKPDP	1998	Jammu & Kashmir
20.	Janata Dal (Secular)	JD(S)	1999	Karnataka, Kerala
21.	Janata Dal (United)	JD(U)	1999	Bihar
22.	Jharkhand Mukti Morcha	JMM	1972	Jharkhand
23.	Jharkhand Vikas Morcha (Prajatantrik)	JVM(P)	2006	Jharkhand
24.	Kerala Congress (M)	KC(M)	1979	Kerala
25.	Lok Janshakti Party	LJP	2000	Bihar
26.	Maharashtra Navnirman Sena	MNS	2006	Maharashtra
27.	Maharashtrawadi Gomantak Party	MGP	1963	Goa
28.	Manipur State Congress Party	MSCP	1997	Manipur
29.	Mizo National Front	MNF	1959	Mizoram
30.	Mizoram People's Conference	MPC	1972	Mizoram
31.	Naga People's Front	NPF	2002	Manipur, Nagaland
32.	National People's Party	NPP	2013	Meghalaya

TABLE 5 (Cont)

S. No.	Name	Abbreviation	Foundation Year	States/UT
33.	Pattali Makkal Katchi	PMK	1989	Puducherry, Tamil Nadu
34.	People's Party of Arunachal	PPA	1987	Arunachal Pradesh
35.	Rashtriya Janata Dal	RJD	1997	Bihar, Jharkhand
36.	Rashtriya Lok Dal	RLD	1996	Uttar Pradesh
37.	Rashtriya Lok Samta Party	RLSP	2013	Bihar
38.	Revolutionary Socialist Party	RSP	1940	Kerala, West Bengal
39.	Samajwadi Party	SP	1992	Uttar Pradesh
40.	Shiromani Akali Dal	SAD	1920	Punjab
41.	Shiv Sena	SS	1966	Maharashtra
42.	Sikkim Democratic Front	SDF	1993	Sikkim
43.	Sikkim Krantikari Morcha	SKM	2013	Sikkim
44.	Telangana Rashtra Samithi	TRS	2001	Telangana
45.	Telugu Desam Party	TDP	1982	Andhra Pradesh, Telangana
46.	United Democratic Party	UDP	1972	<u>Meghalaya</u>
47.	YSR Congress Party	YSRCP	2011	Andhra Pradesh, Telangana
48.	Samajwadi Janata Party (Rashtriya)	SJP	1990	Uttar Pradesh

¹ <https://www.jagranjosh.com/general-knowledge/list-of-all-the-political-parties-in-india-1476786411-1> (accessed February 2019).

TABLE 6 SOME OF THE SUCCESSFUL POLITICIANS FROM NON-POLITICAL BACKGROUND RISEN IN INDIAN DEMOCRACY

Name	Party	Origin	Position Held
Narendra Modi	BJP	Tea stall owner	Current PM
Atal Bihari Vajpayee	BJP	A Poet cum student leader	Former PM
Smriti Irani	BJP	Actress	Current Textiles Minister
BS Yeddyurappa	BJP	Clerk in State Welfare Department	Former Chief Minister
Yashwant Sinha	BJP	Professor/ IAS	Former Finance Minister
Arun Shourie	BJP	Journalist	Former Minister of Communications and Information Technology
Shatrughan Sinha	BJP	Actor	Former Union Cabinet Minister of Health and Family Welfare and Shipping
MJ Akbar	BJP	Journalist	Former Minister of State (MoS) for External Affairs
Murli Manohar Joshi	BJP	Professor	Former Minister

TABLE 6 (Cont)

Name	Party	Origin	Position Held
Rajyavardhan Singh Rathore	BJP	Veteran	Minister of State (Independent Charge) for Ministry of Youth Affairs and Sports
Jitendra Singh	BJP	Professor	Current Union Minister (multiple ministries)
VK Singh	BJP	Veteran	Current MoS External Affairs
Yogi Aditya Nath	BJP	Seer	Current CM U.P.
PV Narasimha Rao	INC	Educationist	Former PM
Natwar Singh	INC	IFS	Former Minister
JB Kripalani	INC	Professor	Former Minister
Lal Bahadur Shastri	INC	Academic	Former PM
Manmohan Singh	INC	Bureaucrat	Former PM
AK Antony	INC	LIC	Former Defence Minister and Currently MP Kerala
Ashok Gehlot	INC	Magician	Current CM Rajasthan
Mani Shankar Aiyar	INC	Diplomat	Former Minister
Nalamada Uttam Kumar Reddy	INC	Fighter Pilot	MLA Telangana
Sushil Kumar Shinde	INC	Custodian	Former Minister
Shashi Tharoor	INC	Writer/Diplomat	Former Minister
Mayawati	Bahujan Samaj Party	Teacher	Former CM
Mulayam Singh Yadav	Samajwadi Party	Lecturer	Former Minister
Phoolan Devi	Samajwadi Party	Dacoit	Former Minister
Mamta Banerjee	All India Trinamool Congress	Poet	Current CM West Bengal
VS Achuthanandan	CPI(M)	Agricultural Worker	Former Minister
Pinarayi Vijayan	CPI(M)	Trade Unionist	Current CM Kerala
MG Ramachandran	AIADMK	Actor	Former CM TN
Jayalalitha	AIADMK	Actress	Former CM TN
Raghuvansh Prasad Singh	RJD	Professor	Former Minister
Arvind Kejriwal	AAP	Bureaucrat (IRS)	Current CM Delhi

political party on the date of his nomination as a member be deemed to belong to such political party and in other cases be deemed to belong to the political party of which he becomes a member, or, as the case may additionally be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of Article 99. Primarily the object of Anti-Defection Law was to bring down some political defections due to corruption and

dishonesty. It was passed with an intent to curb the ever-increasing political hunt of our legislatures.

The Constitution (32nd Amendment) Act 1973 and the Constitution (48th Amendment) Act 1978 had provisions for decision-making by the President of India and Governors of States in relation to questions on disqualification on ground of defection. However, the Constitution (52nd Amendment) Act 1985 suddenly introduced the provision that questions of disqualification on ground of defection shall be decided by Chairmen and Speakers of the legislative bodies. The intention was to have speedier adjudicative processes under the Tenth Schedule. This provision was a subject matter of serious debate in both Houses of Parliament when the bill was being passed.

In many cases there have been instances where after the declaration of the result, winning candidates tend to resign from their membership of the house as well as the party from which they get elected and straight after winning their respective elections they resign from their membership of the house as well as the party and join another party for political benefits, which so seemingly appears to be fraudulent and goes against the nature and spirit of the democracy and 52nd Constitutional Amendment. However, this law excludes the jurisdiction of the judiciary from reviewing the decision of the Speaker, which was held to be unconstitutional by the Supreme Court in *Kihota Hollohon v. Zachilhu and Ors.*² (1992). The constitution never allows the legislature to limit the powers of judiciary.

In exercise of power to disqualify a member, the Chairman or the Speaker of the house usually takes the decision to disqualify a member and if a complaint is received with respect to the defection of the Chairman or the Speaker, a member of the house, elected by that house, takes the decision.

The Representation of People Act, 1951

Framing and administering the rules for political parties comes under Election Commission of India (ECI). ECI has the ultimate power to register or deny the registration of any association of people as a political party or assign it as a status of National party. Representation of People's Act 1951 makes it mandatory for any association of the individuals calling itself a political party to make application to EC for registration as a political party within 30 days following the date of its formation. The Election Commission's decision in this matter is final.

Section 29A sets down certain conditions for a political party to form and get registered by the Election Commission of India (ECI):

- It must consist only of Indian citizens
- It must call itself a political party set up for the purpose of contesting elections to the Parliament and State Legislatures and for no other purpose.
- It must have at least 100 registered electors as its members.

2. *KihotaHollohon v. Zachilhu and Ors.*, 1992 (1) SCR 686.

An application for registration (along with all supporting documents) is to be submitted to the Secretary of the ECI in the prescribed format.

Also, after a political party has been registered by the ECI, it is its legal duty to keep the ECI duly informed of any change in its name, head office, office-bearers, address, or in any other material matters, like its constitution.

The Income Tax Act also speaks about political parties in the same vein of individual citizens registered with the ECI as political parties. Henceforth Section 13A of the Income Tax Act states that any income of a political party which is chargeable under the head “Income from house property” or “Income from other source” or “any income from voluntary contributions” received by a political party. To add to this provision, Section 29C of the Representation of the People’s Act states that it is mandatory for a political party to submit to the ECI a list of donations they received over Rs.20,000/- in Form 24-A and where such a political party fails to submit a report then such a party won’t be entitled to any tax relief. It states the Treasurer of the party or any other person authorized by the political party shall prepare a report in each financial year in respect of the contribution in excess of Rs.20,000/- received by such political party from any person in that financial year. Any contribution made to a political party made by an individual is deductible under section 80CGC and under 80GGB of the Income Tax Act in case if the contribution is made by an individual.

Role of Election Commission

Laws governing internal party operations: Currently, there is no express provision for internal democratic regulation of political parties in India – the only (limited) provision in the law requires an explicit undertaking pledging true faith and allegiance to the Constitution of India and the principles enshrined in it. ECI only recommends that a party should be de-registered if internal democracy is not followed in the party.

De-registration: The ECI is not empowered to de-register parties on the grounds of violating the Constitution or breaching the undertaking given to it at the time of registration. A party can only be de-registered if its registration was obtained by fraud; if it is declared illegal by the Central Government; or if a party amends its internal Constitution and notifies the EC that it can no longer abide by the Indian Constitution.

Party Symbols: Election symbols are simple images that are easily identifiable by the general mass of voters. Each symbol represents a political party and helps the voter to identify the party of her choice while casting her vote. This becomes particularly important where voters are illiterate and rely only on the symbols to identify the party they wish to vote for. The ECI decides which party gets which symbol. Only parties that are recognized by the ECI can reserve symbols for their own exclusive use. This is an important reason why political parties try to get recognized by the ECI. Unrecognized parties can pick from any unreserved or free symbols. The symbol reserved for a National party can be exclusively used by it

and its candidates in all states throughout India. State parties, on the other hand, have symbols reserved for them only in the State(s) where they are so recognized. The ECI has also stipulated that a symbol reserved for a State party in any State will not be reserved for another State party in any other State (with effect from December, 1997), or be a free symbol anywhere else.

“Regional” and “National” political parties: Political parties may be recognized as “National Party” or a “State Party” based on its past performance in elections and its representation in Lok Sabha/Vidhan Sabha. The primary advantage of being recognized as a National Party or a State Party is that the Party is entitled to use its reserved symbol for all its candidates contesting elections throughout the country or the State, as the case may be. In conclusion, ECI has symbolic powers regarding the registration and de-registration of the parties.

Regarding reforms, the M.N. Venkatachaliah Committee had recommended for a separate legislation to regulate political parties. This recommendation along with some other reports of law commission led to creation of the draft Political Parties (Registration and Regulation of Affairs, etc.) Bill, 2011. This bill was prepared by Centre for Standards in Public Life (CSPL). It was never introduced in any House, but only few provisions were introduced. These are as follows: It made legally binding provisions of maintenance and reporting of funds in excess of Rs. 20,000. It set strict norms for observance of internal democracy; it gave power to registrar of the political parties to direct special audit of accounts and there were provisions of fine, imprisonment and withdraw of registration on non-compliance.³

In *Kihota Hollohon v. Zachilhu and Ors.* (1992), multiple petitions were heard together. The tenth schedule was inserted by the Constitution (52nd Amendment) Act, 1985. The combined petition aimed to challenge the Constitutional validity of the Tenth Schedule introduced by the Constitution (52nd Amendment) Act, 1985. These cases were brought amongst a batch of Writ Petitions, Transfer Petitions, Civil Appeals, Special Leave Petitions and other similar and connected matters raising common questions which were heard together. Four articles of the Constitution were altered by the Constitution (52nd Amendment) Act. These articles are 101(3)(a), 102(2), 190(3)(a) and 191(2). Also, Tenth Schedule was added. This Amendment is often referred to as Anti-Defection Law. The issue involved in this case was whether Tenth schedule curtails the freedom of speech and expression and subvert the democratic rights of the elected member in the Parliament and the Legislature. The Judgment followed in this issue was that the Tenth schedule neither impinges upon the freedom of speech and expression nor subverts the democratic rights of elected members. Granting the final decision to the Speaker/Chairman is valid and this provision is valid because the Supreme Court and the High Court can exercise Judicial review. It was held by the minority judges that the basic feature of the Constitution has been violated as the Constitutional scheme for decisions on questions on disqualification of members

3. Source: Law Commission, 255th Report, Accessible at <http://lawcommissionofindia.nic.in/reports/Report255.pdf> (accessed Feb, 2019)

after being duly elected contemplates adjudication of such disputes by an independent authority outside the House, namely President or Governor in accordance with the opinion of the Election Commission, who are high Constitutional functionaries. The Election Commission had a similar opinion as that of the minority judges in the present case. In the year 1977, it made recommendations and suggested that the disqualification on grounds of defection could also be referred to the Election Commission for tendering opinion to the President or the Governor, as the case may be, and the President or the Governor shall act on such opinion tendered by the Election Commission, as it was in the case of other disqualifications referred to in articles 102 and 191 of the Constitution. It was thus held that the para 6 of the Tenth Schedule does not introduce a non-justiciable area. The power to resolve the disputes of the Speaker/Chairman is a judicial power. The important construction is that of the “finality clause” which paved a way for the majority to reach the judgment.

In *Ravi S Naik v. Union of India*⁴ (1994), the issue was if the resignation constitutes “voluntarily giving up” membership of a political party. The judgment followed that there is a wider meaning of the words “voluntarily giving up membership.” Interpreting paragraph 2 (1) (a) of the Tenth Schedule, the Supreme Court observed, “The expression ‘voluntarily given up his membership’ is not synonymous with ‘resignation’ ... Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

In *G. Viswanathan v. Speaker, Tamil Nadu legislative Assembly*⁵ (1996), the issue for consideration before Supreme Court was if a member is expelled from the old party and he joins another party after being expelled, will it be considered as having voluntarily given up his membership? Supreme Court observed that once a member is expelled, he is treated as an unattached member in the house but continues to be a member of the old party as per the Tenth Schedule. Only, if he joins a new party after being expelled, he can be said to have voluntarily given up his membership of the old party.

- In *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi*⁶ (1987) the Supreme Court, while commenting upon the way independent candidates enter elections to either be successful or move an election petition against the successful candidates, has taken a note of, emphasized upon the role taken by political party “In Parliamentary form of Democracy political parties play vital role and occasionally they sponsor candidates of the election. But under the existing law it is open to any elector to contest election from any parliamentary constituency in the country and it is not necessary that the

4. *Ravi S Naik v. Union of India*, AIR 1994 SC 1558 :1994 (SUPP 2) SCR 641.

5. *G. Viswanathan v. Speaker, Tamil Nadu Legislative Assembly*, AIR 1996 SC1060 : (1996) 2 SCC 353.

6. *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi*, AIR 1987 SC 1577 : 1987(3) SCR 369.

candidate should be sponsored by a political party. It is permissible for an elector to contest election on his own as an independent candidate. Some independent individuals contest election genuinely and some of them have succeeded also but experience has shown that a large number of independent candidates contest the election for the mere sake of contesting, with a view to make out grounds for challenging the election. Presence of a number of independent candidates results in confusion, for the millions of the illiterate and ignorant electors who exercise their electoral right on the basis of 'symbols' printed on the ballot papers. The presence of large number of independent candidates makes the ballot paper of unmanageable size and ordinary elector is confused in the election booth while exercising his franchise. This leads to confusion."

- In *Rama Kant Pandey v. Union of India*⁷ (1993), the Supreme Court has pointed out that "for a strong vibrant democratic Government to exist, it is necessary to have a parliamentary system which involves majority as well as minority so that there may be full-fledged debate on controversial issues on the floor of the house. This is best achieved through a party system. To abolish or ignore the party system would be to permit a chorus of discordant notes to replace an organised discussion."

7. *Rama Kant Pandey v. Union of India*, AIR 1993 SC 1766 : 1993 (1) SCR 786.



CHAPTER 4

THE DYNASTICAL DEMOCRACY OF INDIA

“Dynasties contribute to Democracy with their flesh and blood; no one rejects such a gift!”

“Sanjay, this democracy must be the game of skilled politicians as you say. To rise up and reach the throne without winning gory wars can only be justified with equivalent amount of people manipulation. The antiquity of the wars is transformed into manipulative cerebral gallant. I still have doubts if this democracy ensures a ruler of genuine heart for the people. How miraculous it is that people accept the reign of an unknown family, whose dynasty is yet to be unfolded? The civilians need an assurance that they are putting their lives in the hand of the worthy, the ones who have the proven heritage of enraptured sovereign. It’s not the one who sits at throne, it’s about what he has to offer for the future, through the dynasty that he establishes, nourishes and acclimatizes to rule efficaciously.”

“Maharaj, your doubts are reasonable and hold a ground. But even dynasties can fail to offer ideal kings; this is the reason the dynasties do get toppled once they fail the capability. The democracy, however, keeps the dynasties on its toes to continually stay rooted and worthy to the set of people who vote for it. Inevitably, each time dynasties fail competence and connect, a fresh dynasty is given opportunity through democratic gates. Every new leader cannot establish dynasty, it needs vision, determination and values that their patronage embraces the political career.”

“Interesting and ironic Sanjay! On one hand you say, its democracy and on other hand you say that politics runs in a lineage of family. Elaborate, I am listening.”

“Maharaj, nothing comes cost free, listen to what Arjuna is asking Krishna ...”

नायं लोकोऽस्त्ययज्ञस्य कुतोऽन्यः कुरुसत्तम ॥

nāyaṁ loko ’sty ayajñasya
kuto ’nyaḥ kuru-sattama

—Arjuna to Krishna Chapter 4, Text 31, Shrimad Bhagavad Gita

Meaning:

O best of the Kuru dynasty, without sacrifice one can never live happily on this planet or in this life: what then of the next?

Explanation:

Chapter 4 of the Bhagavad Gita enlightens the humans on penances of Sacrifice, which can be meditation, yoga, development of will-power or offerings of consumables to underprivileged.



“O No Sanjay, don’t tell me you see the dynasties doing actual sacrifices and penances in Kalyuga! Do you mean Kalyugi penances?” Dhritarashtra smirked.

“Maharaj, I see everything in mixed up in Kalyuga, no dynasty can survive only being good and not being politically skilled. All I infer is that they do work hard, generation after generation to develop that connect with the ongoing generation of people, in order to emerge as ruling dynasties. India got independence from the British in 1947 and in 1950, the Constitution of India was institutionalized, most of the dynasties are freshly established post-independence through the penances suitable for the new democratic times and are definitely recognized by the people by their votes. It’s legitimate and fair. These fresh dynasts involve their kith and kin in the political process instead of picking up peaceful livelihoods where they can live with lesser risk of exposure and judgments. This choice of spending their lives under public scrutiny, dedicated to their service is although a paying career but needs grit and gallant. It’s no less than a sacrifice where most wealthy people are selfish meaningless debauchers.

So, yes, we have dynasties but the reason they can survive in democracy by their own commitments and efficiency with democratic weapons. If at all a ruling position is awarded for the reason of lineage, it fails the democratic test of time.”

“Who are they, who are ruling, continuously?”

“Nobody usually rules continuously Maharaj, like I explained that the incumbency keeps shifting among the democratically polarized clans. It’s the political parties that stay with dynastical hold. We have Gandhi-Nehru clan in the North India, we have Scindia clan of Central India, Yadav clans in Uttar Pradesh and Bihar, the Abdullah and Mufti families in Jammu and Kashmir, Karunanidhi family in Tamil Nadu, Fadnavis & Mahajan clan in Maharashtra, Dhumal clan in Himachal Pradesh; some of them like Scindias had been rulers before India became democratic.”

“I got it, but they all have to win elections to come to power.”

“Yes Maharaj, they win elections where they have the local hold and connect with the people. They don’t need the support of other political parties. Somehow, in India, despite of democracy, the people of the country have huge acceptance about the family lineage and dynasties. Pick any family; let’s look at Yadav family of Uttar Pradesh. The family has more than twenty active politicians in the State. Mulayam Singh Yadav is a three-time Chief Minister. His son, **Akhilesh Yadav**, is a former Chief Minister and the current party president. Akhilesh Yadav’s wife, **Dimple Yadav**, is a Member of Parliament from Kannauj. Mulayam Singh Yadav’s younger brother, **Shivpal Singh Yadav**, was a major force in the party and had held served several top ministries. Shivpal Singh Yadav’s son is also set to be in politics. **Ramgopal Yadav**, who is a cousin of Mulayam and Shivpal Singh Yadav, is a party heavyweight and a Rajya Sabha member. The Yadav Family has a political party

with the name Samajwadi Party. However, now Shivpal Yadav has separated from Samajwadi Party and formed a new political party called Pragatisheel Samajwadi Party (Lohia). Particularly, if we look at **Priyanka Gandhi**, from the Gandhi-Nehru clan, she has never contested any election but is an impactful politician when it comes to influence people for votes for her brother, **Rahul Gandhi.**”

“Are you saying that political family always wins elections because of their lineage or because they are skilled politicians at winning elections?”

“Maharaj, it’s both. The lineage can definitely award them with a stable and influential position in a political party and under unusual circumstances, a ruling position but to stay there, they must use the democratic weapons wisely and attain the skills to survive as a democratic politician. They all understand that dynastic acceptance cannot sustain unless proven time and again. Look at the Congress Party, they formed coalition government in 2004 and 2009 but instead of declaring or establishing Rahul Gandhi as a Prime Minister, they waited to nurture his democratic skills. The dynasty can award some public image and acceptance, rest the individual needs to earn in order to stay for the long run.”

“This is indeed the best mix of dynastic and democratic rule!”

“Yes Maharaj, there is a huge acceptance of the heir, despite we are 5,000 years apart in the era, the Indian people, still love the heirs and willingly cherish the lineage and accept their leadership. Rahul Gandhi’s mother Sonia Gandhi has been at the helm of the grand old party Congress for nearly two decades. She succeeded the late Sitaram Kesari in early 1998. Such continued rule of a party by one family has seldom been seen in any other parts of the world. The people of India are also extremely tolerant; they give up on dynasties only temporarily, due to frustrations of scams and poor economic performance. So clan can lose popularity, followed by losing election. Although, since they are also skilled politicians, they do return back in incumbency after strengthening their ground work.”

“Do you mean Congress is the only dynastic party in modern India?”

“Maharaj, it’s cultural acceptability, then how could it be limited to one political party. It’s due to the political strategy of opposition that the perception is only for Congress; however, the truth is that no political party in India is free from family lineage of politicians. Interestingly, to checkmate the Gandhis, the BJP had once brought in Maneka Gandhi and her son Varun. There is enough eye opener data available that all political parties follow it.”

“Hmm, so I was not the only one promoting my children in politics. My India, still follow my footsteps.”

“O Maharaj, I hope not,” Sanjay bowed after uttering what he had to.

TABLE 7 FEW DYNASTS TO PROVE THE POINT THAT INDIAN DEMOCRACY'S PRIME BUILDING BLOCKS ARE DYNASTIES

National and Regional Parties have found themselves controlled by some families. Be it the Bharatiya Janata Party (BJP), Indian National Congress (INC), Telugu Desam Party (TDP), Telangana Rashtra Samithi (TRS), Indian National Lok Dal (INLD), Rashtriya Lok Dal (RLD), Shiromani Akali Dal (SAD), Samajwadi Party (SP), Rashtriya Janata Dal (RJD), Peoples Democratic Party (PDP), National Conference (NC), Biju Janata Dal (BJD) and even the Jharkhand Mukti Morcha (JMM), the family not only matters, but also calls the shots in Indian Democracy.

Party	Region	Patriarch/ Matriarch	Info	Years Active
Bharatiya Janata Party (BJP) and Indian National Congress (INC)	Madhya Pradesh/ Rajasthan	Rajmata Vijaya Raje Scindia	<ul style="list-style-type: none"> • Madhavrao Scindia, Son, Ex Minister of Railways (INC) • Yashodhara Raje Scindia, Daughter, Politician (BJP) • Vasundhara Raje Scindia, Daughter, Ex Chief minister of Rajasthan (BJP) • Jyotiraditya Scindia, Grandson, M P from Guna Constituency (INC) • Dushyant Singh, Grandson, M P from Jhalawar-Baran Constituency (BJP) 	1957– Till Date
Bharatiya Janata Party (BJP)	Maharashtra	Pramod Mahajan	<ul style="list-style-type: none"> Pramod Mahajan – Parliamentary affairs minister in Atal Bihari Vajpayee government • Poonam Mahajan, Daughter, M P from Mumbai North Central Constituency and President of BJP Youth Wing (BJP) 	1974– Till Date
Bharatiya Janata Party (BJP)	Uttar Pradesh	Rajnath Singh	<ul style="list-style-type: none"> Rajnath Singh – Former president of BJP and current Union Home Minister of India • Pankaj Singh, Son, MLA from Noida Constituency and General Secretary of BJP Uttar Pradesh (BJP) 	1975– Till Date
Indian National Congress (INC)	Andhra Pradesh	Dr. Y.S. Rajasekhara Reddy	<ul style="list-style-type: none"> Dr. Y.S. Rajasekhar Reddy was ex-chief minister of Andhra Pradesh. • Y. S. Vijayamma, Wife, MLA from Pulivendula Constituency Andhra Pradesh (YSR Congress Party) • Y.S. Jaganmohan Reddy, Son, Ex – M P from Congress and currently President of YSR Congress Party (INC & YSR Congress Party) • Y. S. Sharmila, Daughter, Politician (YSR Congress Party) • Y. S. Vivekananda Reddy, Brother, Ex-MP from Kadapa Constituency and currently MLC in Andhra Pradesh (YSR Congress Party) • P. Ravindranath Reddy, Brother in Law, MLA from Kamalapuram Constituency Andhra Pradesh (YSR Congress Party) 	1978– Till Date

TABLE 7 (Cont)

Party	Region	Patriarch/ Matriarch	Info	Years Active
Indian National Congress (INC)	Andhra Pradesh/ Telangana	P.V. Narasimha Rao	PV Narasimha Rao was 9th Prime Minister of India. <ul style="list-style-type: none"> • Late P.V. Ranga Rao, Son, Ex - education minister in Kotla Vijaya Bhaskara Reddy's cabinet and MLA from Hanamakonda Assembly Constituency (INC) • Late P.V. Rajeshwar Rao, Son, Ex—MP from Secunderabad Lok Sabha constituency (INC) 	1957– 2013
Congress (INC)	Bihar	Dr. Anugrah Narayan Sinha	Dr. Anugrah Narayan Sinha – statesman, freedom fighter, first Deputy Chief Minister of Bihar (1946–1957) <ul style="list-style-type: none"> • Satyendra Narayan Sinha, Son, Ex - Chief Minister of Bihar (INC & Janata Party) • Kishori Sinha, Daughter in Law, Former Member of Parliament (INC & Janata Party) • Nikhil Kumar, Grandson, Governor of Nagaland • Shyama Singh, Granddaughter in Law, Former Member of Parliament 	1937– 2014
Congress (INC)	Goa	Pratapsingh Rane	Pratapsingh Rane was former chief minister of Goa. <ul style="list-style-type: none"> • Vishwajit Pratap Singh Rane, Son, Health Minister in Goa Government (INC & Janata Party) 	1980– Till Date
Congress (INC)	Haryana	Om Prakash Jindal	<ul style="list-style-type: none"> • Savitri Jindal, Wife, Former Member of Haryana Legislative Assembly and former Minister of Power in Haryana (INC) • Naveen Jindal, Son, Former Member of Parliament from Kurukshetra (INC) 	1991– Till Date
Congress (INC)	Haryana	Ranbir Singh Hooda	<ul style="list-style-type: none"> • Bhupinder Singh Hooda, Son, Former Chief Minister of Haryana (INC) • Deepender Singh Hooda, Grandson, MP from Rohtak Constituency (INC) 	
Congress (INC)	Odisha	Devendra Satpathy	<ul style="list-style-type: none"> • Nandini Satpathy, Former Chief Minister of Odisha (INC) • Tathagata Satpathy, MP from Odisha (Biju Janata Dal) • Suparno Satpathy, Young political leader of Odisha (Biju Janata Dal) 	1971– TILL DATE
Congress (INC)	Punjab	Capt. Amarinder Singh	Punjab chief minister Amarinder Singh also heads a political family. <ul style="list-style-type: none"> • Prenit Kaur, Wife, Former Union Minister (INC) 	1980– Til Date

TABLE 7 (Cont)

Party	Region	Patriarch/ Matriarch	Info	Years Active
Congress (INC)	Rajasthan	Rajesh Pilot	Rajesh Pilot, MP and ex-Cabinet Minister • Rama Pilot , Wife, Former MP (INC) • Sachin Pilot , Son, Deputy CM of Rajasthan (INC)	1980– Till Date
Congress (INC)	Uttarakhand	Hemwati Nandan Bahuguna	• Vijay Bahuguna , Son, Former Chief Minister of Uttarakhand (BJP) • Rita Bahuguna Joshi , Daughter, Minister Of Tourism in Government Of Uttar Pradesh.(INC & BJP)	1940s– Till Date
Congress (INC)	West Bengal	Priyaranjan Das Munshi	• Deepa Dasmunshi , Wife, Former Minister for Urban Development (INC)	1971– 2014
Congress (INC)	West Bengal	Kamada Kinkar Mukherjee	• Pranab Mukherjee , Son, Former Senior INC leader and former President of India (INC) • Abhijit Mukherjee , Grandson, MP from the Jangipur constituency in West Bengal. (INC) • Sharmishtha Mukherjee , Granddaughter, Delhi Congress Leader (INC)	1952– Till Date
Dravida Munnetra Kazhagam (DMK)	Tamil Nadu	M Karunanidhi	• M.K. Stalin , Son, Former MLA and currently the leader of the opposition in the state. (DMK) • M. K. Alagiri , Son, Former Union Minister (DMK) • Kanimozhi , Daughter, Member of the Parliament in Rajya Sabha (DMK) • Dayanidhi Maran , Grandnephew, Former union cabinet minister for two terms (DMK)	1957– Till Date
Indian National Lok Dal	Haryana	Chaudhari Devi Lal	• Ch. Om Prakash Chautala , Son, Former Chief Minister of Haryana (Indian National Lok Dal) • Abhay Chautala , Grandson, MLA, Haryana and Ex-MLA Rajasthan (Indian National Lok Dal) • Ajay Chautala , Grandson, MLA and Ex-MP Haryana (Indian National Lok Dal)	1958– Till Date
Jammu and Kashmir Peoples Democratic Party (PDP) and Jammu and Kashmir National Conference (NC)	Jammu & Kashmir	Mufti Mohammad Sayeed &Sheikh Abdulla	• Mehbooba Mufti , Daughter, Former chief minister (PDP) • Omar Abdullah , Grandson of Sheikh Abdullah, Former Chief Minister of J&K (National Conference) • Farooq Abdullah , Son of Sheik Abdulla, Former Chief Minister of J&K (National Conference)	1932– Till Date

TABLE 7 (Cont)

Party	Region	Patriarch/ Matriarch	Info	Years Active
Janata Dal (Secular)	Karnataka	H.D. Deve Gowda	<ul style="list-style-type: none"> • H.D. Kumaraswamy, Son, Chief Minister of Karnataka (Janata Dal (Secular)) • H.D. Revanna, Son, MLA (Janata Dal (Secular)) • Anitha, Wife, MLA from Kolar (Janata Dal (Secular)) 	1953– Till Date
Janata Party (Secular)	Uttar Pradesh	Chaudhary Charan Singh	<ul style="list-style-type: none"> • Gayatri Devi, Wife, Member of Parliament & MLA (Janata Party (Secular)) • Ajit Singh, Son, Former MP and former Union Minister (Janata Party (Secular), Rashtriya Lok Dal) • Jayant Chaudhary, Grandson, MP from Mathura (Rashtriya Lok Dal) • Saroj Singh, Daughter, MLA • Gyanwati, Daughter, MLA 	1935– Till Date
Janata Dal	Odisha	Biju Patnaik	<ul style="list-style-type: none"> • Naveen Patnaik, Son, BJD leader and present chief minister (Janta Party) 	1951– Till Date
Lok Janashakti Party (LJP)	Bihar	Ram Vilas Paswan	<ul style="list-style-type: none"> • Chirag Paswan, Son, MP (Lok Janshakti Party). • Ramchandra Paswan, Brother, MP (Lok Janshakti Party). • Pashupati Paswan, Brother, Minister for Animal and Fish Resources Department in Nitish Kumar Government (Lok Janshakti Party). 	1969– Till Date
Nationalist Congress Party	Maharashtra	Sharad Pawar	<ul style="list-style-type: none"> • Supriya Sule, Daughter, MP (Nationalist Congress Party) • Ajit Pawar, Nephew, Former deputy chief minister (Nationalist Congress Party) 	1967– Till Date
Rashtriya Janata Dal (RJD)	Bihar	Lalu Prasad Yadav	<ul style="list-style-type: none"> • Rabri Devi, Wife, Former CM (RJD) • Tej Pratap Yadav, Son, Former Health Minister of Bihar (RJD) • Tejaswi Yadav, Son, Former deputy chief minister of Bihar (RJD) • Misa Bharati, Daughter, Rajya Sabha MP (RJD) 	1977– Till Date
Samajwadi Party (S P)	Uttar Pradesh	Mulayam Singh Yadav	<ul style="list-style-type: none"> • Akhilesh Yadav, Son, Former chief minister of Uttar Pradesh (S P) • Dimple Yadav, Daughter in Law, MP (S P) • Dharmendra Yadav, Nephew, MP (S P) • Akshay Yadav, Nephew, MP (S P) • Tej Pratap Singh Yadav, Grand-nephew, MP (S P) • Shivpal Singh Yadav, Brother, Political Leader (SP-PSP) 	1967– Till Date

TABLE 7 (Cont)

Party	Region	Patriarch/ Matriarch	Info	Years Active
Shiromani Akali Dal	Punjab	Parkash Singh Badal	<ul style="list-style-type: none"> • Sukhbir Badal, Son, Former Deputy chief minister (Shiromani Akali Dal) • Harsimrat Kaur, Daughter in Law, Union minister of food processing (Shiromani Akali Dal) 	1947– Till Date
Shiv Sena	Maharashtra	Bal Keshav Thackeray	<ul style="list-style-type: none"> • Uddhav Thackeray, Son, Chief of Hindu nationalist Shiv Sena • Raj Thackeray, Nephew, Head of Maharashtra Navnirman Sena • Aditya Thackeray, Grandson, President of Shiv Sena - youth wing (Shiv Sena) 	1966– Till Date
Telangana Rashtra Samithi (TRS)	Telangana	Kalvakuntla Chandra Shekhar Rao	<ul style="list-style-type: none"> • K.T. Rama Rao, Son, MLA (TRS) • K. Kavitha, Daughter, MP (TRS) 	
Telugu Desam Party (TDP)	Andhra Pradesh	N.T. Rama Rao	<ul style="list-style-type: none"> • N. Chandrababu Naidu, Son in Law, CM of Andhra Pradesh (TDP) 	1982– TILL DATE
All India Anna Dravida Munnetra Kazhagam (AIADMK)	Tamil Nadu	M.G. Ramachandran	<ul style="list-style-type: none"> • Janaki Ramachandran, Wife, CM (AIADMK) • Late Jayalalitha, Former CM (AIADMK) 	1953– 2017
All India Majlis-e-Ittehad-ul-Muslimeen (AIMIM)	Telangana	Sultan Salahuddin Owaisi	<ul style="list-style-type: none"> • Asaduddin Owaisi, Son, Member of Parliament (AIMIM) • Akbaruddin Owaisi, Son, MLA Andhra Pradesh (AIMIM) 	1960– Till Date
All India Trinamool Congress (TMC)	West Bengal	Mamata Banerjee	<ul style="list-style-type: none"> • Abhishek Banerjee, Nephew, MP from Diamond Harbour Constituency (TMC) 	1984– Till Date
Bahujan Samaj Party (BSP)	Uttar Pradesh	Mayawati	<p>Mayawati is now promoting-</p> <ul style="list-style-type: none"> • Anand Kumar, Brother, in the party to boost its fortunes (BSP) • Aakash, Nephew, in the party to boost its fortunes (BSP) 	1984– Till Date

TABLE 8 SOME OF THE FAILED OR UNSUCCESSFUL DYNASTS OF INDIAN POLITY

S. No.	Party	Name of Political Leader	Name of Their Family Member and Relation
1.	BJP	Pramod Mahajan	Rahul Mahajan (Son)
2.	BJP	Lal Krishna Advani	Jayant Advani (Son)
3.	BJP	Kalraj Mishra	Anil Mishra (Son)
4.	INC	Pranab Mukherjee	Sharmistha Mukherjee (Daughter)
5.	INC	P. Chidambaram	Karti Chidambaram (Son)
6.	INC	Sunil Dutt	Priya Dutt (Daughter)
7.	INC & Chhatisgarh Janta Congress	Ajit Jogi	Amit Jogi (Son)
8.	Janta Dal - Secular	Ch. Charan Singh	Jayant Chaudhary (Grandson)
9.	Shiv Sena	Bal Thackeray	Raj Thackeray (Nephew)
10.	SP	Shivpal Singh Yadav	Aditya Yadav (Son)

CHAPTER 5

MORAL FIBER AND CORRUPTION

System is Legal, but not Moral!

इदमद्य मया लब्धमिमं प्राप्स्ये मनोरथम् ।
इदमस्तीदमपि मे भविष्यति पुनर्धनम् ॥ 13॥
असौ मया हतः शत्रुर्हनिष्ये चापरानपि ।
ईश्वरोऽहमहं भोगी सिद्धोऽहं बलवान्सुखी ॥ 14॥
आढ्योऽभिजनवानस्मि कोऽन्योऽस्ति सदृशो मया ।
यक्ष्ये दास्यामि मोदिष्य इत्यज्ञानविमोहिताः ॥ 15॥

idam adya mayā labdham imam prāpsyē manoratham
idam astīdam api me bhaviṣhyati punar dhanam
asau mayā hataḥ śhatrur haniṣhye chāparān api
tīshvaro ‘ham aham bhogī siddho ‘ham balavān sukhī
ādhyo ‘bhijanavān asmi ko ‘nyo ‘sti sadṛiṣho mayā
yakṣhye dāsyāmi modīshya ity ajñāna-vimohitāḥ

—Krishna to Arjuna, Chapter 16, Texts 13–15

Meaning:

The demoniac persons think, “I have gained so much wealth today, and I shall now fulfill this desire of mine. This is mine, and tomorrow I shall have even more. That enemy has been destroyed by me, and I shall destroy the others too! I am like God himself, I am the enjoyer, I am powerful, and I am happy. I am wealthy and I have highly placed relatives. Who else is equal to me? I shall perform sacrifices (to the celestial gods); I shall give alms; I shall rejoice.” In this way, they are deluded by ignorance.

Explanation:

Ignoring all morality, the demoniac presume they have a right to enjoy whatever they find pleasurable. They make concerted efforts to orchestrate events to fulfill their ambitions. Realizing that the ritualistic practices of the Vedas will help them become materially affluent, they even perform ritualistic ceremonies to accrue abundance and fame from them. However, like the vulture that flies high but keeps its sight fixed low, the demoniac sometimes rise in social status, but their actions remain mean and lowly. Such people respect power and believe in the principle of “might is right.” Hence, they do not hesitate in even harming or injuring others to eliminate obstacles in the fulfillment of their desires.

After reckoning the text from Krishna, Maharaja Dhritarashtra's fervor oozed.

“Sanjay! History accuses my family to be immoral tyrants. Our people, who murmured in convalescence, succumbed to the autocratic dictum of Royal Family. We interpreted Dharma to suit our ambition and any oppressive vocalization was scorned. My democratic Bharat-varsh seems revolutionized! The citizens acquired the power to choose, what a Metamorphosis! They shall not have any reason to cry foul, not anymore. Tell me Sanjay, do you see this?”

Sanjay guffawed after glancing at the number of criminals in the Parliament. “Maharaj, I didn't really mean scoffing at your kinsmen. I was implying to the modern democratic politicians, let me tell you the statistics.” (Refer to Table 9.)

TABLE 9 CRIMINALS IN INDIAN PARLIAMENT

YEAR	2004	2009	2014
CANDIDATES ANALYSED	514	516	536
CANDIDATES WITH CRIMINAL CASES	125	157	180
PERCENTAGE	24%	30%	34%
CANDIDATES WITH SERIOUS CRIMINAL CASES	60	86	115
PERCENTAGE	12%	17%	21%
TOTAL	185(36%)	243(47%)	295(55%)
ELECTION ON ELECTION CHANGE	N/A	+58(+11%)	+52(+08%)

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Note: From this, the mean election on election change can be gauged to be 9.5% and thus with such an increase, it is not far that the winners of every election shall be with criminal records against his name. In 2014, only 241 Candidates remained without any criminal record and with an increase of 9.5% of 545, it would take four more elections to cover the rest of the winners as persons with criminal records, which would mean that in 2034 General Elections, the entire elected Members of Parliament in India shall bear criminal records.

Sanjay winked and Dhritarashtra smiled. They both remembered Krishna's wise word on how the Moral Fiber of Humans should look like.

अमानित्वमदम्भित्वमहिंसा क्षान्तिरार्जवम्
 आचार्योपासनं शौचं स्थैर्यमात्मविनिग्रहः ॥ 8॥
 इन्द्रियार्थेषु वैराग्यमनहङ्कार एव च
 जन्ममृत्युजराव्याधिदुःखदोषानुदर्शनम् ॥ 9॥
 असक्तिरनभिष्वङ्गः पुत्रदारगृहादिषु
 नित्यं च समचित्तत्वमिष्टानिष्टोपपत्तिषु ॥ 10॥
 मयि चानन्ययोगेन भक्तिरव्यभिचारिणी
 विविक्तदेशसेवित्वमरतिर्जनसंसदि ॥ 11॥

अध्यात्मज्ञाननित्यत्वं तत्त्वज्ञानार्थदर्शनम्
एतज्ज्ञानमिति प्रोक्तमज्ञानं यदतोऽन्यथा॥ 12॥

amānitvam adambhitvam ahinsā kṣhāntir ārjavam
āchāryopāsanam śhaucham sthairyam ātma-vinigrahaḥ
indriyārtheṣhu vairāgyam anahankāra eva cha
janma-mṛityu-jarā-vyādhi-duḥkha-doṣhānudarśhanam
asaktir anabhiṣhvaṅgaḥ putra-dāra-grihādiṣhu
nityam cha sama-chittatvam iṣṭāniṣṭopapattiṣhu
mayi chānanya-yogena bhaktir avyabhichāriṇī
vivikta-deśha-sevitvam aratir jana-sansadi
adhyātma-jñāna-nityatvam tattva-jñānārtha-darśhanam
etaj jñānam iti proktam ajñānam yad ato ‘nyathā –

—Krishna to Arjuna Chapter 13, Text 8-12, Shrimad Bhagavad Gita

Meaning:

Humbleness; freedom from hypocrisy; non-violence; forgiveness; simplicity; service of the Guru; cleanliness of body and mind; steadfastness; and self-control; dispassion toward the objects of the senses; absence of egotism; keeping in mind the evils of birth, disease, old age, and death; non-attachment; absence of clinging to spouse, children, home, and so on; even-mindedness amidst desired and undesired events in life; constant and exclusive devotion toward Me; an inclination for solitary places and an aversion for mundane society; constancy in spiritual knowledge; and philosophical pursuit of the Absolute Truth—all these I declare to be knowledge, and what is contrary to it, I call ignorance.

“I don’t want to believe that the elected ruler fails to be humble, simple, forgiving, compassionate, un-attached, loving and devoted to the people who voted for him. Tell me Sanjay, I want to be right! Or else, what this democracy is worth? Tell me Sanjay, what do you see?”

“Maharaj, its time you should know, how much disconnected the new world could be with their own inner consciousness and conscience! The civilization, with degraded Morals might deserve further degraded Ministers.” Without battling his eyelid, Sanjay went on “Let me tell you what I see! I see goons in every nick and corner of the country, ruling at gun point, running their personal law and order in their respective areas with the assistance of junior goons; they are murderers, they are rapists, they are greedy, they are rebels, they are robbers, yet they are Politicians in Democracy because it confers with the Law of the Land. Sometimes, the gangsters even contest elections from their criminally active prison cells. The Indian Law is on weak knees in front of the Mafia-turned politician due to its principle of equality and equity of not declaring anyone as criminal unless he or she is proven guilty by the law courts. These criminal take advantage of this phenomena and delay their cases for years, sometimes decades and continue their political careers.”

“Isn’t the civilization upgrading itself in Morals, I thought if we were more forgiving and compassionate, there would have been no killings during Mahabharata! Does it mean that the passage of time only degraded the humanism? Non-violence, honesty, integrity, sincerity, loyalty, non-duality and selflessness are the virtues the civilization must aspire! What does the democracy aspire?”

“Maharaj, let me make it clear, Democracy doesn’t function on Moral Values, it operates on Law.”

“This is shocking Sanjay, how could the two of them be distant?”

“Maharaj, it’s legally permissible, for a world known criminal, to contest election unless he is proven guilty in the court of law. It’s immoral but not illegal. Hence the candidates go on contesting elections.”

Maharaj seemed thunderstruck. “Are the Indians ceremoniously unscrupulous to manufacture Laws that condone criminals? The Law of the country must not allow even a single criminal to come to power.”

“Maharaj, the reality is an unfortunate accident, the country has institutionalized itself some 70 years ago, not everything could have been foreseen and since the intelligence is gifted to greedy, the loopholes get exploited at their best. Maharaj, the evil current of Kalyuga, makes it way out of these laid down lifeless law books. If we look at the Parliament record, in 2014, 55% of total members have criminal cases against them, 21% have serious criminal cases against them. By this speed, at the conclusion of elections of year 2034, the entire Parliament would be choked up with authentic legal criminals.”

“Gosh Sanjay, what are your Arjunas doing? Are they not acting to stop the criminals?”

“Maharaj, Arjunas are taking the legal battles up; let me mention a landmark case decided by Supreme Court of India:

In *Lily Thomas v. Union of India and others*¹ (2013), while deciding the Constitutional validity of Section 8(4) of Representation of People Act, 1951, the Supreme Court of India held that Article 102(1) and 191(1)(e) of the Constitution would make it abundantly clear that Parliament is to make one law for a person to be disqualified for being chosen as, and for being, a member of either House of Parliament or Legislative Assembly or Legislative Council of the State and for the sitting members of either House of Parliament or the Legislative Assembly or the Legislative Council of a State and the words in Article 101(3)(a) and 190(3)(a) of the constitution put express limitations on

1. *Lily Thomas v. Union of India and others*, (2013) 7 SCC 653.

such powers of the Parliament to defer the date on which the disqualifications would have effect. Accordingly, Sub-section (4) of Section 8 of the Act which carves out a saving in the case of sitting members of Parliament or State Legislature from the disqualifications under Sub-sections (1), (2) and (3) of Section 8 of the Act or which defers the date on which the disqualification will take effect in the case of a sitting member of Parliament or a State Legislature is beyond the powers conferred on Parliament by the Constitution. Parliament has been vested with the powers to make law laying down the same disqualifications for a person to be chosen as a member of Parliament or a State Legislature and for a sitting member of a House of Parliament or a House of a State Legislature ... the provisions of Article 101(3)(a) and 190(3)(a) of the Constitution expressly prohibit Parliament to defer the date from which the disqualification will come into effect in case of a sitting member of Parliament or a State Legislature. Parliament, therefore, has exceeded its powers conferred by the Constitution in enacting Sub-section (4) of Section 8 of the Act and accordingly Sub-section (4) of Section 8 of the Act is *ultra vires* the Constitution ... If any sitting member of Parliament or a State Legislature is convicted of any of the offences mentioned in Sub-sections (1), (2) and (3) of Section 8 of the Act and by virtue of such conviction and/or sentence suffers the disqualifications mentioned in Sub-sections (1), (2) and (3) of Section 8 of the Act after the pronouncement of this judgment, his membership of Parliament or the State Legislature, as the case may be, will not be saved by Sub-section (4) of Section 8 of the Act. Sub-section (4) of Section 8 of the Representation of the People Act, 1951 was declared as *ultra vires* the Constitution.

“After this case, if a criminal gets convicted, he would be debarred from contesting Elections. The appeal in any court of law wouldn’t matter. This judgment was highly appreciated among the masses; however, political classes became fearful and tried to curb the same by way of bringing an amendment through an Ordinance providing safeguard by seeking to allow a legislator to retain membership after conviction on condition that appeal is filed within 90 days and the sentence is stayed by appeal court. However, this ordinance later lapsed.”

“Tell me who suffered disqualification due to Lily Thomas judgment and also tell me has any one criminal who got debarred due to disqualification law in India?”

“Yes Maharaj, Lalu Prasad Yadav (Member of Parliament, Lok Sabha) and Rasheed Masood (Member of Council of States) were the first two to suffer disqualification as an aftermath of Lily Thomas judgment. There is a gangster from Bihar, Mohammad Shahabuddin, who rose to power despite having dozens of criminal cases going against him for murder, attempt to murder, kidnapping, rioting etc. He was elected four times as a Member of Parliament (MP) from Siwan, Bihar, with the Rashtriya Janata Dal (RJD) and two times as MLA,

to the Bihar Vidhan Sabha. He was debarred from contesting the 2009 general elections. There are many criminals like him who contest and win on the basis of muscle power, till they get debarred. And in many cases, after debarment, they bring their close and totally inexperienced family members as proxy to remain in power. Another way for them is to delay justice and earn time; this has been the greatest weapon used by them to dodge the process of law, disqualification and public.”

“Are there more such important judgments delivered by the Arjuna of the country?”

“Yes, Maharaj, there are.”

Manoj Narula case (2014)

In *Manoj Narula v. Union of India*² (2014), one of the issues pertained to the legality of persons with criminal background and/or charged with offences involving moral turpitude to be appointed as Ministers in the Central and the State Governments. The majority referred to the constitutional provisions, namely, Articles 74, 75, 163 and 164 and adverted to the Doctrine of Implied Limitation and opined:

“On a studied scrutiny of the ratio of the aforesaid decisions, we are of the convinced opinion that when there is no disqualification for a person against whom charges have been framed in respect of heinous or serious offences or offences relating to corruption to contest the election, by interpretative process, it is difficult to read the prohibition into Article 75(1) or, for that matter, into Article 164(1) to the powers of the Prime Minister or the Chief Minister in such a manner. That would come within the criterion of eligibility and would amount to prescribing an eligibility qualification and adding a disqualification which has not been stipulated in the Constitution. In the absence of any constitutional prohibition or statutory embargo, such disqualification, in our considered opinion, cannot be read into Article 75(1) or Article 164(1) of the Constitution.”

In *Manoj Narula case* while observing that criminalization of politics is an anathema to the sacredness of democracy, Supreme Court observed:

“A democratic polity, as understood in its quintessential purity, is conceptually abhorrent to corruption and, especially corruption at high places, and repulsive to the idea of criminalization of politics as it corrodes the legitimacy of the collective ethos, frustrates the hopes and aspirations of the citizens and has the potentiality to obstruct, if not derail, the Rule of law. Democracy, which has been best defined as the Government of the People, by the People and for the People, expects prevalence of genuine orderliness, positive propriety, dedicated

2. *Manoj Narula v. Union of India*, (2014) 9 SCC 1 : 2014(9) SCALE 600.

discipline and sanguine sanctity by constant affirmance of constitutional morality which is the pillar stone of good governance.”

AND

“...systemic corruption and sponsored criminalization can corrode the fundamental core of elective democracy and, consequently, the constitutional governance. The agonized concern expressed by this Court on being moved by the conscious citizens, as is perceptible from the authorities referred to hereinabove, clearly shows that a democratic republic polity hopes and aspires to be governed by a Government which is run by the elected representatives who do not have any involvement in serious criminal offences or offences relating to corruption, casteism, societal problems, affecting the sovereignty of the nation and many other offences.”

The Supreme Court also held that while interpreting Article 75(1), definitely a disqualification could not be added. But regard being had to the role of a Minister in the Council of Ministers and keeping in view the sanctity of oath he takes, the Prime Minister, while living up to the trust reposed in him, is expected not to choose a person with criminal antecedents against whom charges have been framed for heinous or serious criminal offences or charges of corruption to become a Minister of the Council of Ministers. This is what the Constitution suggests and that is the constitutional expectation from the Prime Minister.

Public Interest Foundation (2018)

In *Public Interest Foundation v. Union of India*³ (2018), while dealing with the disqualification of membership of parliament, Supreme Court observed that the same can be laid down by the Court beyond Article 102(a) to (d) and the law made by the Parliament under Article 102(e). The Supreme Court also observed that the Law Commission, noted the decisions in *Union of India v. Association for Democratic Reforms*⁴ (2002), *Lily Thomas v. Speaker Lok Sabha*⁵ (1993) and *People's Union for Civil Liberties v. Union of India*⁶ (2003) and after referring to the previous reports recommending reforms, recommended:

“To tackle the menace of wilful concealment of information or furnishing of false information and to protect the right to information of the electors, the Commission recommended that the punishment Under Section 125A of RPA must be made more stringent by providing for imprisonment of a minimum term of two years and by doing away with the alternative Clause for fine. Additionally, conviction Under Section 125A RPA should be made a part of Section 8(1)(i) of the Representation of People Act, 1950.”

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3. *Public Interest Foundation v. Union of India*, MANU/SC/1048/2018 : (2018) SCC OnLine SC 1617.
 4. *Union of India v. Association for Democratic Reforms*, AIR 2002 SC 2112 : 2002 (5) SCC 294.
 5. *Lily Thomas v. Speaker Lok Sabha*, (1993) 4 SCC 234.
 6. *People's Union for Civil Liberties v. Union of India*, AIR 2003 SC 2363 : (2003) 4 SCC 399.

The Supreme Court summarized the directions as under:

- Voter has the elementary right to know full particulars of a candidate—from concept of democracy and Article 19(1)(a).
- Ultimate purpose of filing of affidavit along with the nomination paper is to effectuate the fundamental right of the citizens under Article 19(1)(a).
- Filing of affidavit with blank particulars will render affidavit nugatory (para 73 of People’s Union for Civil Liberties case will not come in way of the Returning Officer to reject the nomination paper).
- Returning Officer can compel a candidate to furnish the relevant information, for giving effect to the ‘right to know’ of the citizens (but the bar should not be laid so high that justice itself is prejudiced).
- Candidate must take the minimum effort to explicitly remark as ‘NIL’ or ‘Not Applicable’ or ‘Not known’ in columns and not blank particulars.
- Affidavit with blanks—directly hit by Section 125-A(i) of Representation of People Act.

Justice Dipak Misra, then Chief Justice of India wrote that Dr Rajendra Prasad on the Floor of the Constituent Assembly, before putting the motion for passing of the Constitution, had observed:

“...It requires men of strong character, men of vision, men who will not sacrifice the interests of the country at large for the sake of smaller groups and areas ... We can only hope that the country will throw up such men in abundance.”

Resurgence India case (2014)

In *Resurgence India v. Election Commission of India*⁷ (2014) referring to the various precedents, the Supreme Court observed:

“Thus, this Court held that a voter has the elementary right to know full particulars of a candidate who is to represent him in Parliament and such right to get information is universally recognised natural right flowing from the concept of democracy and is an integral part of Article 19(1)(a) of the Constitution. It was further held that the voter’s speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is a must. Thus, in unequivocal terms, it is recognised that the citizen’s right to know of the candidate who represents him in Parliament will constitute an integral part of Article 19(1)(a) of the Constitution of India and any act, which is derogative of the fundamental rights is at the very outset ultra vires.”

In respect of the factors and parameters, which are to be taken into consideration while dealing with the issue of the affidavits filed by the candidates/contestants; and whether to make it compulsory for the Returning Officers to ensure that the affidavits filed by the contestants should be complete in all respects and to reject

7. *Resurgence India v. Election Commission of India*, AIR 2014 SC 344 : (2014) 14 SCC 189.

those nomination papers which are accompanied by incomplete/blank affidavits and for deterrent action against the Returning Officers in case of acceptance of such incomplete affidavits in order to remove deficiencies in the format of the prescribed affidavit, the Supreme Court issued following directions:

- The voter has the elementary right to know full particulars of a candidate who is to represent him in the Parliament/Assemblies and such right to get information is universally recognized. Thus, it is held that right to know about the candidate is a natural right flowing from the concept of democracy and is an integral part of Article 19(1)(a) of the Constitution.
- The ultimate purpose of filing of affidavit along with the nomination paper is to effectuate the fundamental right of the citizens under Article 19(1)(a) of the Constitution of India. The citizens are supposed to have the necessary information at the time of filing of nomination paper and for that purpose the Returning Officer can very well compel a candidate to furnish the relevant information. Thus, in unequivocal terms, it is recognized that the citizen's right to know of the candidate who represents him in the Parliament will constitute an integral part of Article 19(1)(a) of the Constitution of India and any act, which is derogative of the fundamental rights is at the very outset *ultra vires*.
- Filing of affidavit with blank particulars will render the affidavit nugatory.
- It is the duty of the Returning Officer to check whether the information required is fully furnished at the time of filing of affidavit with the nomination paper since such information is very vital for giving effect to the "right to know" of the citizens. If a candidate fails to fill the blanks even after the reminder by the Returning Officer, the nomination paper is fit to be rejected. We do comprehend that the power of Returning Officer to reject the nomination paper must be exercised very sparingly but the bar should not be laid so high that the justice itself is prejudiced.
- We clarify to the extent that Para 73 of *People's Union for Civil Liberties v. Union of India*⁸ (2003) will not come in the way of the Returning Officer to reject the nomination paper when affidavit is filed with blank particulars; which reads as under:

"73. While no exception can be taken to the insistence of affidavit with regard to the matters specified in the judgment in Assn for Democratic Reforms case, the direction to reject the nomination paper for furnishing wrong information or concealing material information and providing for a summary enquiry at the time of scrutiny of the nominations, cannot be justified. In the case of assets and liabilities, it would be very difficult for the Returning Officer to consider the truth or otherwise of the details furnished

8. *People's Union for Civil Liberties v. Union of India*, AIR 2003 SC 2363 : (2003) 4 SCC 399.

with reference to the ‘documentary proof’. Very often, in such matters the documentary proof may not be clinching and the candidate concerned may be handicapped to rebut the allegation then and there. If sufficient time is provided, he may be able to produce proof to contradict the objector’s version. It is true that the aforesaid directions issued by the Election Commission are not under challenge but at the same time prima facie it appears that the Election Commission is required to revise its instructions in the light of directions issued in Association for Democratic Reforms case and as provided under the Representation of the People Act and its third Amendment.”

- The candidate must take the minimum effort to explicitly remark as “NIL” or “Not Applicable” or “Not known” in the columns and not to leave the particulars blank.
- Filing of affidavit with blanks will be directly hit by Section 125A(i) of the RP Act. However, as the nomination paper itself is rejected by the Returning Officer, we find no reason why the candidate must be again penalized for the same act by prosecuting him/her.

The Ratio Decidendi of this case is thus, “If Election Commission accepts nomination papers in spite of blank particulars in affidavits, it will directly violate fundamental right of citizen.”

Anukul Chandra Pradhan case (1997)

In *Anukul Chandra Pradhan v. Union of India and others*⁹ (1997) Supreme Court observed that provision in election law have been made to exclude persons with criminal background, of the kind specified therein, from the election scene as candidates and voters with the object to prevent criminalization of politics and maintain propriety in elections and provisions enacted with a view to promote the said object must be welcomed and upheld as sub serving the constitutional purpose. The Supreme Court decided the constitutional validity of sub-section (5) of Section 62, “No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police,” i.e., “Right to Vote” under the Representation of the People Act, 1951 and held:

“The right to vote is subject to the limitations imposed by the statute which can be exercised only in the manner provided by the statute; and that the challenge to any provision in the statute prescribing the nature of right to elect cannot be made with reference to a fundamental right in the Constitution. The very basis of challenge to the validity of sub-section (5) of Section 62 of the Act is, therefore, not available and this petition is dismissed.”

9. *Anukul Chandra Pradhan v. Union of India and others*, AIR 1997 SC 2814 : (1997) 6 SCC 1.

K. Prabhakaran case (2005)

In *K. Prabhakaran v. P. Jayarajan*¹⁰ (2005), the Supreme Court of India observed:

“Those who break the law should not make the law. Generally speaking the purpose sought to be achieved by enacting disqualification on conviction for certain offences is to prevent persons with criminal background from entering into politics and the house—a powerful wing of governance. Persons with criminal background do pollute the process of election as they do not have many a holds barred (sic) and have no reservation from indulging into criminality to win success at an election.”

In regard to a question, “Whether a returned candidate was qualified or not qualified or is disqualified for being chosen to fill the seat,” Justice R.C. Lahoti, then Chief Justice (for self and on behalf of Shivaraj V. Patil, B.N. Srikrishna and G.P. Mathur, JJ.) observed:

“Under Sub-clause (i) of Clause (d) of Sub-section (1) of Section 100 of the R.P.A. the improper acceptance of any nomination is a ground for declaring the election of the returned candidate to be void. This provision is to be read with Section 36(2)(a) which casts an obligation on the returning officer to examine the nomination papers and decide all objections to any nomination made, or on his own motion, by reference to the date fixed for the scrutiny of the nominations. Whether a candidate is qualified or not qualified or is disqualified for being chosen to fill the seat, has to be determined by reference to the date fixed for the scrutiny of nomination. That is the focal point. The names and number of candidates who will be in the fray is determined on the date of the scrutiny of the nomination papers and the constituency goes to polls. Obviously, the decision by the Returning Officer has to be taken on the facts as they exist on that day. The decision must be accompanied by certainty. The Returning Officer cannot postpone his decision nor make it conditional upon what may happen subsequent to that date. Under Section 100(1)(d)(i) of the Act the High Court has to test the correctness of the decision taken by the Returning Officer and the fact whether any nomination was improperly accepted by reference to the date of the scrutiny of the nomination as defined in Section 36(2)(a). An election petition is heard and tried by a court of law. The proceedings in election petition are independent of the election proceedings which are held by the Executive. By no stretch of imagination the proceedings in election petition can be called or termed as continuation of election proceedings. The High Court trying an election petition is not hearing an appeal against the decision of Returning Officer or declaration of result of a candidate. The correct position by law is that nomination of a person disqualified within the meaning of Sub-section (3) of Section 8 of the R.P.A. on the date of scrutiny of nominations under Section 36(2)(a) shall be liable to be rejected as invalid and such

10. *K Prabhakaran v. P Jayarajan*, AIR 2005 SC 688 : (2005) 1 SCC 754.

decision of the Returning Officer cannot be held to be illegal or ignored merely because the conviction is set aside or so altered as to go out of the ambit of Section 8(3) of the R.P.A. consequent upon a decision of a subsequent date in a criminal appeal or revision. An Appellate Judgment of a date subsequent to the date of nomination or election (as the case may be) and having a bearing on conviction of a candidate or sentence of imprisonment passed on him would not have the effect of wiping out disqualification from a back date if a person consequent upon his conviction for any offence and sentenced to imprisonment for not less than two years was actually and as a fact disqualified from filing nomination and contesting the election on the date of nomination or election (as the case may be).”

As per Section 8(3) of the Representation of People Act, 1951, “A person convicted of any offence” to be construed as all offenses of which he has been charged and “Sentenced to a term of 2 years” would be decided by calculating the total term of imprisonment for which one person has been convicted. The Supreme Court held:

“The provision has to be so meaningfully construed as to effectively prevent the mischief sought to be prevented. The expression ‘a person convicted of any offence’ has to be construed as all offences of which a person has been charged and held guilty at one trial. The applicability of the expression ‘sentenced to imprisonment for not less than 2 years’ would be decided by calculating the total term of imprisonment for which the person has been sentenced. In the case of P. Jayarajan the sentences of imprisonment were to run consecutively in terms of the Judgment of the trial Court. The periods of sentences of imprisonment for different offences shall have to be totalled up. On such totalling, the total term for which P. Jayarajan would have remained in Jail did exceed a period of 2 years and consequently attracted the applicability of Section 8(3) of the RPA which cast a disqualification upon P. Jayarajan on the date of scrutiny of the nomination papers. His nomination could not have been accepted by the Returning Officer and he was not right in holding him not disqualified. In the light of the view of the law taken by us on Question-1 above, the subsequent event of the several terms of imprisonment having been directed by the Appellate Court to run concurrently on a date subsequent to the date of scrutiny is irrelevant and liable to be ignored.”

Mohinder Singh Gill case (1978)

In *Mohinder Singh Gill v. Chief Election Commissioner*¹¹ (1978), the Supreme Court observed:

“Democracy is government by the people. It is a continual participative operation, not a cataclysmic periodic exercise. The little man, in his multitude,

11. *Mohinder Singh Gill v. Chief Election Commissioner*, AIR 1978 SC 851 : (1978) 1 SCC 405.

marking his vote at the poll does a social audit of his Parliament plus political choice of this proxy. Although the full flower of participative Government rarely blossoms, the minimum credential of popular government is appeal to the people after every term for a renewal of confidence. So we have adult franchise and general elections as constitutional compulsions ... It needs little argument to hold that the heart of the Parliamentary system is free and fair elections periodically held, based on adult franchise, although social and economic democracy may demand much more.”

Subhash Chandra Aggarwal (2013)

In *Subhash Chandra Aggarwal v. Indian National Congress & Others*¹² (2013), the Chief Information Commission (CIC) observed:

“It is the Political Parties that form the Government, man the Parliament and run the governance of the country. It is therefore, necessary to introduce internal democracy, financial transparency and accountability in the working of the Political Parties. A political party which does not respect democratic principles in its internal working cannot be expected to respect those principles in the governance of the country. It cannot be dictatorship internally and democratic in its functioning outside ... Though the RPA disqualifies a sitting legislator or a candidate on certain grounds, there is nothing regulating the appointments to offices within the organisation of the party. Political parties play a central role in Indian democracy. Therefore, a politician may be disqualified from being a legislator, but may continue to hold high positions within his party, thus also continuing to play an important public role which he has been deemed unfit for by the law. Convicted politicians may continue to influence law-making by controlling the party and fielding proxy candidates in legislature. In a democracy essentially based on parties being controlled by a high-command, the process of breaking crime-politics nexus extends much beyond purity of legislators and encompasses purity of political parties as well.

It is suggested that political parties should refrain from appointing or allowing a person to continue holding any office within the party organisation if the person has been deemed to lack the qualities necessary to be a public official. Therefore, the legal disqualifications that prevent a person from holding office outside a party should operate within the party as well.”

Lok Prahari Case (2018)

In *Lok Prahari v. Union of India*¹³ (2018), Justice Jasti Chelameshwar of Supreme Court of India confronted with the question of disqualifying legislators on the ground of disproportionate assets and observed:

12. *Subhash Chandra Aggarwal v. Indian National Congress & Ors.*, [2013] 121 SCL 43 (CIC).

13. *Lok Prahari v. Union of India*, (2018) 4 SCC 699.

“Undue accumulation of wealth in the hands of any individual would not be conducive to the general welfare of the society. The political belief underlying the declaration of the Preamble of the Constitution that India should be a Socialistic Republic. Articles 38 and 39 of Indian Constitution declare that the State shall direct its policy towards securing that the ownership and control of material resources of the community are distributed so as to best sub serve the common good and guaranteeing that the economic system did not result in the concentration of wealth and means of production to the common detriment. The present Court was of the opinion that such declarations take within their sweep the requirement of taking appropriate measures to ensure that Legislators and the associates did not take undue advantage of their constitutional status afforded by the membership of the Legislature enabling the Legislator to have access to the power of the State. Accumulation of wealth in the hands of elected representatives of the people without any known or by questionable sources of income paves way for the Rule of mafia substituting the Rule of law.”

“If a temporary disqualification could be imposed on a Legislator even in the absence of any legislative prescription, the Government of India would undoubtedly be competent to make such a stipulation by making appropriate Rules declaring that undue accretion of assets would render a Legislator ‘disqualified.’ Further, it would be equally competent for the Government of India to establish a permanent mechanism for monitoring the financial affairs of the Legislators and their associates for periodically ascertaining the relevant facts. Because the establishment of such a permanent mechanism would be a necessary incident of the authority to declare a Legislator ‘disqualified.’”

“Compelling a candidate to disclose the relevant information, would to an extent be a legal burden on the candidate’s constitutional right to contest an election. The scheme of the Constitution, rights falling under the fundamental rights chapter could not be abrogated or taken away except by authority of law. Law in the context has always been held by this Court to require statutory basis. There are various other rights conferred by the Constitution other than the fundamental rights. Whenever it was thought fit that such rights should be curtailed, the text of the Constitution made a declaration to that effect and also stipulated the manner in which such rights could be controlled or regulated. Article 102 is a limitation on the Constitutional right of the citizens to seek the membership of the Parliament. It prescribes certain disqualifications for being chosen as or for a being a Member of either House of the Parliament. It further declares that apart from the enumerated disqualifications, other disqualifications could be prescribed by or under any law made by the Parliament. In other words, Parliament could itself prescribe disqualifications or could authorize some other body or authority to prescribe such disqualifications. Similar is the structure of Article 84 with respect to qualifications for membership of Parliament. Logically there could not be any objection for imposing the legal burden upon the candidates to disclose the relevant information. Form 26 provides for various kinds of information to be disclosed by the candidate. It could not be said that the existing information required to be disclosed under the

affidavit is exhaustive of all the information a candidate needs to provide. This is because any embargo placed on the voters' right to know the relevant information to be disclosed by the candidate is subject to scrutiny under the fundamental right of the voter under Article 19(1)(a). Therefore, any limitation on information to voter could not be inferred."

Highlighting the issue of Criminalization of Politics, the Former Chief Election Commissioner, Mr. T.S. Krishna Murthy wrote:

"There have been several instances of persons charged with serious and heinous crimes like murder, rape, dacoity, etc. contesting election, pending their trial, and even getting elected in a large number of cases. This leads to a very undesirable and embarrassing situation of lawbreakers becoming lawmakers and moving around under police protection. The Commission had proposed that the law should be amended to provide that any person for five years or more should be disqualified from contesting election even when trial is pending, provided charges have been framed against him by the competent court. Such a step would go a long way in cleansing the political establishment from the influence of criminal elements and protecting the sanctity of the Legislative Houses."

A Committee formed by the Rajya Sabha acknowledged the existence of criminal elements in the Indian polity which hit the roots of democracy. The Committee observed:

"...the Committee is deeply conscious of the criminalization of our polity and the fast erosion of confidence of the people at large in our political process of the day. This will certainly weaken our democracy and will render the democratic institutions sterile. The Committee therefore feels that politics should be cleansed of persons with established criminal background. The objective is to prevent criminalization of politics and maintain probity in elections. Criminalization of politics is the bane of society and negation of democracy."

"Maharaj, an important development in democracy is also NOTA (None of the Above) option came into force from September 18, 2015 which gives power to a voter to choose none of the candidates in the fray of elections. This right came into effect after Supreme Court directed in its judgment in *People's Union for Civil Liberties v. Union of India*¹⁴ (2013) that the right to register None of the Above vote in election should apply and directed Election Commission to provide button in Electronic Voting Machines (EVMs). However, the said feature would remain ineffective, till the same is provided tooth, as in today's perspective, NOTA, though in operation, provides no redressal to the plight of voters, who are compelled to choose from the candidates, imposed on them by political parties and NOTA could be effective only when 50% or maximum votes polled come in favor of NOTA. Without reaching this benchmark, the provision of NOTA works as a nullity or as an inconsequential data."

14. *People's Union for Civil Liberties v. Union of India*, (2013) 10 SCC 1 : 2013 (12)SCALE165.

In *Shailesh Manubhai Parmar v. Election Commission of India*¹⁵ (2018) Supreme Court of India dealt with the issue of introduction of NOTA to the election process for electing members of the Council of States (Rajya Sabha) and observed:

“...introduction of NOTA to the election process for electing members of the Council of States will be an anathema to the fundamental criterion of democracy which is a basic feature of the Constitution. It can be stated without any fear of contradiction that the provisions for introduction of NOTA as conceived by the Election Commission, the first respondent herein, on the basis of the PUCL judgment is absolutely erroneous, for the said judgment does not say so. We are disposed to think that the decision could not have also said so having regard to the constitutional provisions contained in Article 80 and the stipulations provided under the Tenth Schedule to the Constitution. The introduction of NOTA in such an election will not only run counter to the discipline that is expected from an elector under the Tenth Schedule to the Constitution but also be counterproductive to the basic grammar of the law of disqualification of a member on the ground of defection. It is a well settled principle that what cannot be done directly, cannot be done indirectly. To elaborate, if NOTA is allowed in the election of the members to the Council of States, the prohibited aspect of defection would indirectly usher in with immense vigour.”

“Sanjay” Maharaja sighed deeply, “This is a massive struggle, it’s really a nail dust of outcome to stop a mountain, hold my hand, is my India converting into the land of criminals and hooligans, injustice and immorality? Have we totally lost what we fought for during Mahabharata? The power has gone to looters, barbarians, corrupt and unethical cult. How does the world sees my countrymen now, tell me Sanjay, what do you see?”

“No Maharaj, India is widely known as peaceful nation by other countries on the planet but what it holds at its inner core and bottom roots is an utter contrast. People are violently or surreptitiously controlled by mafia politicians who become sure shot winners in the democratic elections because they possess local votes through power wielding and surreptitious methods.”

“How can they possess votes, aren’t the voters having power to choose who they want?”

“Maharaj, imagine the plight of meek voters residing in the area of Mukhtar Ansari from Mau, Uttar Pradesh, who would vote for Mukhtar Ansari, even if they don’t want!”

“Yes Sanjay, elaborate on this plight of voters to me.”

“Maharaj, if this voter needed money for his daughter’s wedding, or his son wanted a government posting, Ansari helped. How could this voter ‘not vote’ for

15. *Shailesh Manubhai Parmar v. Election Commission of India*, (2018) 9 SCC 100.

him. Under the debts of favors and despair of muscle power, no one could even oppose the power cuts in the Ghazipur and Mau areas when his electric looms run for the production of textile. He and his opponents have had gun fights for control of lucrative government contracts. Ansari won his first Assembly election as a candidate of the Bahujan Samaj Party (BSP), and the next two as an independent. In 2007, he joined BSP and unsuccessfully contested the 2009 Lok Sabha election. After BSP expelled him in 2010 for criminal activities, he formed his own party Quami Ekta Dal with his brothers. He won from the Mau seat in the Uttar Pradesh legislative assembly election, 2012.”

“What is Arjuna doing? Any Arjuna who attempted intervention?”

“Yes Maharaj, the then young Uttar Pradesh Chief Minister, Akhilesh Kumar Yadav, did an Arjuna act and stepped up to fight against his own Uncle Shivpal Yadav and refused to offer nomination to Mukhtar Ansari and his aides due to their criminal background. This caused a row in his own family and he had to bear the consequences. Ansari, however, merged his party, Quami Ekta Dal with BSP in 2017, and won in state elections as a BSP candidate!”

“Seriously! In Kalyuga, evil power is unstoppable; we need more collective moral conscious to stop them.”

“Yes Maharaj, in not so old times, even Dons had strong grip on ethics, Haji Mastan (1926–1994), despite being a criminal, held strong moral principles and never stooped to the level of drugs or terrorism business. And now, in the 21st century, even holding the public post doesn’t have any ethical implications on the person. Let me inform you some more Notorious Names who held political power in India and the List of Members of Parliament (MPs) elected in 2014 General Election having pending Serious Criminal Cases.”

ANANT KUMAR SINGH: MLA, MOKAMA BIHAR, Ex JDU CONTESTED 2015 AS INDEPENDENT

Mokama, not far from Patna, is where Singh holds sway. It is a rural belt, and the facts about his criminal background aren’t unknown to the people of the area. But he has emerged as a Robin Hood-figure who organizes mass weddings and helps have-nots in the region. He claims he has organized 10,000 weddings in his constituency so far.

He says there were 150 cases against him. He has got bail in most of those, he adds with a smile. After he challenged Surajbhan Singh in 2005 and established himself as the next *bahubali* (strong man), both Nitish Kumar and Lalu Prasad had approached him to lend their parties a hand. He has always been seen as Nitish Kumar’s man, though.¹⁶

16. <http://www.openthemagazine.com/article/india/the-don-of-mokama> (accessed Feb, 2019).

ATEEQ AHMED: Ex-MP, PHULPUR, UTTAR PRADESH, SAMAJWADI PARTY

Belonging to the Samajwadi Party, he was a member of the 14th Lok Sabha from the Phulpur Lok Sabha Constituency in Uttar Pradesh in 2004–2009. He is currently in prison facing trial in 35 criminal cases including several cases of murder and is viewed as one of the most powerful ganglords in the Allahabad region. As of February 2008, his gang is said to be 134 strong.

He has been named in the murder of Raju Pal, the BSP legislator who had won from Allahabad (West) constituency, defeating Ateeq's brother Khalid Azeem "Ashraf." After his killing, Ashraf again re-gained the legislative seat. Investigators have pointed to Ashraf as the main accused in the murder of Raju Pal, with assistance from his elder brother.

Criminal cases pending against Ateeq include the murder of an undertrial named Akhtar in the Allahabad High Court premises in 1995, and conspiracy to murder Javed Iqbal, alias Pappoo, in Allahabad in 2001, in which one of Javed's bodyguards were killed.

BHUMA NAGI REDDY, 3 TERMS AS MLA AND MP, KURNOOL, ANDHRA PRADESH

Bhuma was well known for maintaining a private army that followed him even to Hyderabad and Delhi. He hit the national limelight when he contested as a TDP candidate against the prime minister P.V. Narasimha Rao in the Nandyal Parliament bypoll. He left the TDP and joined Chiranjeevi's Praja Rajyam Party in 2006 and lost in the 2008 bypolls. He later joined the YSR Congress. While he was in the YSR Congress, the TDP slapped him with six cases, including murder and an SC/ST case. Rayalaseema's history of factionalism spilling blood has also been brought to screens by Ram Gopal Varma through the *Rakta Charitra* series. According to police records, in the last 35 years, nearly 8,465 civilians, including 970 Congress and 560 TDP workers have been killed due to factional violence in this region.¹⁷

ARUNGULABAHIR@ARUNGAWLI, Ex-MLA, CHINCHPOKLI, MUMBAI

Gawli was arrested several times for criminal activities and was detained for long periods during the trial. However, he could not be convicted in most of the cases as witnesses would not depose against him for fear of retaliation. He was finally convicted of the murder of Shiv Sena leader Kamalakar Jamsandekar by a court in August 2012. Gawli and eleven others were found guilty of Jamsandekar's murder. Gawli's daughter Geeta has been recently elected as a corporator to the Brihan Mumbai Municipal Corporation. Gawli got political patronage in the 1980s. However, Gawli fell out with Shiv Sena in the mid-1990s, murdered Shiv Sena men and formed his own political party, the Akhil Bharatiya Sena.

17. <https://thewire.in/119193/rayalaseema-politics-andhra-pradesh/?fromNewsdog=1/amp> (accessed February 2019).

RAJA RAGHURAJ PRATAP SINGH, MLA, KUNDA, UTTAR PRADESH

Popularly known as Raja Bhaiya, he is a six time MLA from Kunda. He has been allegedly accused of the murder of DSP Zia Ul Haq and have had charges under POTA framed against him. Many a dozen criminal cases were registered against him. The CBI has given him a clean chit in the murder of the DSP but further enquiry is pending. He had POTA charges against him, but they were dropped when Mulayam Singh Yadav came to power. He was acquitted upon trial in POTA case after the dropping of charges against him was quashed by the Supreme Court. He became a cabinet minister in the elected SP government (2012–2017).

HITENDRA THAKUR, MLA VASAI MUMBAI, MAHARASHTRA

He is a person who is very different from people with criminal antecedents; he has eight cases against him but what strikes out is his brother Jayendra Thakur who was a local don and a member of Dawood Ibrahim's gang and had aided him to climb the political ladders. He has a long list of cases against him wherein even his brother has been named, from extortion to murder and land grab. Virar, his constituency got into news when Navleen Kaur, an activist against land mafia was murdered.

PAPPU YADAV

Rajesh Ranjan alias Pappu Yadav is an MP from Jan Adhikar Party who has even been one of the best performing MPs in 2015. Chugging from RJD to SP to LJP, he's been an MLA in 1990 and an MP four times. His wife was a former MP from Saharsa. He has spent five years in jail in connection with the murder of CPI leader Ajit Sarkar. He plans to contest 2019 on a Grand Alliance ticket. Though he has pending criminal cases, he is widely propagated and known for his welfare and altruistic activities.

(For further details of MPs having serious criminal cases pending against them, please refer to Table 10.)

“And the list goes on, as per data available on Myneta.info, another 180 Members of Parliament in 2014 General Election have criminal cases pending against them, though they are not serious criminal cases.”

“Sanjay, Indian Politics is flowing toward Goons, Gangsters, Mafia, Dons, Bahubalis, whatever you call them; 55% criminals in Parliament! All the Arjunas must get together and ban and corner that political party which sports and supports criminals. I think it shouldn't be so tough.”

“Maharaj, your ignorance could have been wishful but unfortunately, the number of criminals is on the rise, constantly and nearly every political party is full of leaders with pending criminal cases. The parties are primarily interested in winning the elections which such people easily manage with their local hold. Hence nearly all parties nominate *Bahubalis*.”

Agonized and tormented with the Gangsters' upsurge to power, Dhritarashtra went pale, “Too much to come for power? Do they reduce violations of Morality and Law, once they become Ministers? Responsibility should have some impact?”

TABLE 10 LIST OF MEMBERS OF PARLIAMENT ELECTED IN 2014 GENERAL ELECTION HAVING PENDING SERIOUS CRIMINAL CASES¹

S. No.	Candidate (MPs of 2014)	Constituency	Party	Criminal Case	Education	Total Assets	Liabilities
1	A.P. Jithender Reddy	Mahbubnagar	TRS	4	Graduate	Rs14,08,31,576~ 14Crore+	Rs13,86,969~ 13Lacs+
2	A. Arunmozhihevan	Cuddalore	AIADMK	9	Graduate Professional	Rs1,57,65,250~ 1Crore+	Rs0~
3	Adhalrao Shivaji Dattatreya	Shirur	SHS	10	Others	Rs25,38,80,475~ 25Crore+	Rs6,18,10,866~ 6Crore+
4	Adhir Ranjan Chowdhury	Baharampur	INC	16	10th Pass	Rs8,14,65,854~ 8Crore+	Rs0~
5	Adv. Joice George	Idukki	IND	4	Post Graduate	Rs1,73,96,207~ 1Crore+	Rs94,17,720~ 94Lacs+
6	Ahir Hansraj Gangaram	Chandrapur	BJP	11	10th Pass	Rs1,55,48,000~ 1Crore+	Rs99,500~ 99Thou+
7	Ajay Kumar	Kheri	BJP	2	Graduate Professional	Rs.2,65,05,977~ 2Crore+	Rs.1,00,00,000~ 1Crore+
8	Anbumani Ramadoss	Dharmapuri	PMK	8	Graduate Professional	Rs.31,43,78,451~ 31Crore+	Rs.4,19,41,065~ 4Crore+
9	Anupriya Singh Patel	Mirzapur	Apna Dal	2	Post Graduate	Rs.2,68,58,156~ 2Crore+	Rs.18,05,603~ 18Lacs+
10	Anurag Singh Thakur	Hamirpur	BJP	10	Graduate	Rs.4,65,35,803~ 4Crore+	Rs.20,74,555~ 20Lacs+
11	Asaduddin Owaisi	Hyderabad	All India Majlis-E-Itehadul Muslimeen	4	Graduate Professional	Rs.4,06,11,099~ 4Crore+	Rs.1,40,00,000~ 1Crore+
12	Avinash Reddy Yeduguri Sandinti	Kadapa	Yuvajana Sramika Rythu Congress Party	1	Post Graduate	Rs.7,04,80,623~ 7Crore+	Rs.55,47,296~ 55Lacs+
13	B Sreeramulu	Bellary	BJP	8	Graduate	Rs15,13,92,844~ 15Crore+	Rs40,50,947~ 40Lacs+
14	B.S. Yeddyurappa	Shimoga	BJP	8	12th Pass	Rs.6,97,46,267~ 6Crore+	Rs.5,00,000~ 5Lacs+
15	Babulal	Fatehpur Sikri	BJP	3	12th Pass	Rs7,30,28,848~ 7Crore+	Rs1,63,90,000~ 1Crore+
16	Badruddin Ajmal	Dhubri	AIUDF	1	Post Graduate	Rs.43,27,48,134~ 43Crore+	Rs.0~

TABLE 10 (Cont)

S. No.	Candidate (MPs of 2014)	Constituency	Party	Criminal Case	Education	Total Assets	Liabilities
17	Balka Suman	Peddapalle	TRS	1	Post Graduate	Rs.73,51,329~73Lacs+	Rs.6,20,770~6Lacs+
18	Barne Shrirang Chandu	Maval	SHS	2	8th Pass	Rs.66,50,47,926~66Crore+	Rs.1,17,99,786~1Crore+
19	Bhairon Prasad Mishra	Banda	BJP	2	12th Pass	Rs.5,00,34,910~5Crore+	Rs.6,00,000~6Lacs+
20	Bharat Singh	Ballia	BJP	3	Graduate	Rs.2,11,30,089~2Crore+	Rs.11,02,553~11Lacs+
21	Bidyut Baran Mahato	Jamshedpur	BJP	8	12th Pass	Rs.1,60,27,526~1Crore+	Rs.7,15,347~7Lacs+
22	Bishnu Pada Ray	Andaman & Nicobar Islands	BJP	1	Graduate	Rs.56,58,980~56Lacs+	Rs.1,75,115~1Lacs+
23	Brij Bhusan Sharan Singh	Kaiserganj	BJP	2	Graduate Professional	Rs.6,16,96,767~6Crore+	Rs.1,15,56,027~1Crore+
24	Butta Renuka	Kurnool	YuvaJana Sramika Rythu Congress Party	1	10th Pass	Rs.2,42,62,40,513~242Crore+	Rs.31,22,79,927~31Crore+
25	Captain Amarinder Singh	Amritsar	INC	3	Graduate	Rs.86,35,64,071~86Crore+	Rs.48,53,456~48Lacs+
26	Chandrakant Bhaurao Khaire	Aurangabad	SHS	8	12th Pass	Rs.9,06,14,560~9Crore+	Rs.2,03,07,244~2Crore+
27	Chauhan Prabhatsinh Pratapsinh	Panchmahal	BJP	3	10th Pass	Rs.1,04,64,000~1Crore+	Rs.0~
28	D.K. Suresh	Bangalore Rural	INC	8	12th Pass	Rs.85,87,13,138~85Crore+	Rs.18,48,54,756~18Crore+
29	Dhananjay Bhimrao Mahadik	Kolhapur	NCP	1	Graduate	Rs.44,88,82,000~44Crore+	Rs.7,13,33,000~7Crore+
30	Dr. Arun Kumar	Jahanabad	Rashtriya Lok Samta Party	1	Doctorate	Rs.3,88,46,631~3Crore+	Rs.10,00,000~10Lacs+
31	Dr. Harsh Vardhan	Chandni Chowk	BJP	2	Post Graduate	Rs.2,82,29,308~2Crore+	Rs.17,80,492~17Lacs+

32	Dr. Ramshankar Katharia	Agra	BJP	21	Doctorate	Rs.1,46,34,885~1Crore+	Rs.40,35,000~40Lacs+
33	Dr.Murlī Manohar Joshi	Kanpur	BJP	1	Doctorate	Rs.7,84,10,008~7Crore+	Rs.0~
34	Faggan Singh Kulaste	Mandla	BJP	2	Post Graduate	Rs.2,57,38,420~2Crore+	Rs.98,311~98Thou+
35	Gadkari Nitin Jairam	Nagpur	BJP	4	Graduate Professional	Rs.15,37,04,475~15Crore+	Rs.1,90,04,037~1Crore+
36	Gaikwad Ravindra Vishwanath	Osmanabad	SHS	8	Post Graduate	Rs.3,28,52,793~3Crore+	Rs.59,62,702~59Lacs+
37	Gandhi Dilipkumar Mansukhlal	Ahmednagar	BJP	16	10th Pass	Rs.6,53,16,725~6Crore+	Rs.3,41,76,876~3Crore+
38	Ganesh Singh	Satna	BJP	2	Post Graduate	Rs.3,78,00,000~3Crore+	Rs.0~
39	Giriraj Singh	Nawada	BJP	1	Graduate	Rs.5,00,54,771~5Crore+	Rs.0~
40	Gokaraju Ganga Raju	Narsapuram	BJP	1	Graduate	Rs.2,88,35,67,122~288Crore+	Rs.16,85,01,286~16Crore+
41	Gopal Chinayya Shetty	Mumbai North	BJP	10	5th Pass	Rs.9,56,17,889~9Crore+	Rs.0~
42	Hari Manjhi	Gaya	BJP	1	8th Pass	Rs.1,01,84,120~1Crore+	Rs.20,00,000~20Lacs+
43	Harish Chandra	Basti	BJP	2	Post Graduate	Rs.53,50,882~53Lacs+	Rs.8,60,185~8Lacs+
44	Hemendra Chandra Singh	Kandhamal	BJD	2	Graduate	Rs.50,39,07,437~50Crore+	Rs.47,86,551~47Lacs+
45	Idris Ali	Basirhat	AITC	9	Graduate Professional	Rs.98,00,277~98Lacs+	Rs.0~
46	Jaiprakash Narayan Yadav	Banka	RJD	2	Post Graduate	Rs.2,78,46,274~2Crore+	Rs.7,91,539~7Lacs+
47	Janardan Singh Sigrival	Maharajganj	BJP	4	Graduate	Rs.47,95,223~47Lacs+	Rs.14,000~14Thou+
48	Kachhadiya Naranbhai Bhikhabhai	Amreli	BJP	2	12th Pass	Rs.3,41,64,801~3Crore+	Rs.49,71,590~49Lacs+
49	Kadiyam Srihari	Warangal	TRS	6	Post Graduate	Rs.1,34,95,000~1Crore+	Rs.0~
50	Kalikesb Narayan Singh Deo	Bolangir	BJD	2	Graduate	Rs.8,79,55,818~8Crore+	Rs.2,44,10,449~2Crore+

TABLE 10 (Cont)

S. No.	Candidate (MPs of 2014)	Constituency	Party	Criminal Case	Education	Total Assets	Liabilities
51	Kalvakuntla Chandrashekar Rao	Medak	TRS	2	Graduate	Rs.15,15,82,464~ 15Crore+	Rs.7,87,53,620~ 7Crore+
52	Kalvakuntla Kavitha	Nizamabad	TRS	8	Graduate Professional	Rs.6,19,55,750~ 6Crore+	Rs.32,13,119~ 32Lacs+
53	Kaushal Kishore	Mohanlalganj	BJP	2	12th Pass	Rs.2,11,28,221~ 2Crore+	Rs.0~
54	Kirit Somaiya	Mumbai North East	BJP	10	Doctorate	Rs.7,21,56,258~ 7Crore+	Rs.65,93,325~ 65Lacs+
55	Kirti Azad	Darbhanga	BJP	4	Graduate	Rs.2,85,31,267~ 2Crore+	Rs.4,31,860~ 4Lacs+
56	Kunwar Bhartendra	Bijnor	BJP	2	Post Graduate	Rs.2,48,40,646~ 2Crore+	Rs.0~
57	Kunwar Sarvesh Kumar	Moradabad	BJP	4	10th Pass	Rs.7,28,66,898~ 7Crore+	Rs.6,00,000~ 6Lacs+
58	Kuwar Harivansh Singh	Pratapgarh	Apna Dal	5	Graduate	Rs.38,31,37,665~ 38Crore+	Rs.14,94,04,112~ 14Crore+
59	Lal Krishna Advani	Gandhinagar	BJP	1	Graduate Professional	Rs.7,59,15,276~ 7Crore+	Rs.0~
60	Lallu Singh	Faizabad	BJP	1	Post Graduate	Rs.1,51,27,861~ 1Crore+	Rs.36,40,964~ 36Lacs+
61	Laxmi Narayan Yadav	Sagar	BJP	1	Graduate Professional	Rs.2,39,62,099~ 2Crore+	Rs.9,56,348~ 9Lacs+
62	M.B. Rajesh	Palakkad	CPI(M)	11	Graduate Professional	Rs.46,76,316~ 46Lacs+	Rs.7,00,680~ 7Lacs+
63	Mahesh Giri	East Delhi	BJP	1	10th Pass	Rs.52,16,375~ 52Lacs+	Rs.4,00,000~ 4Lacs+
64	Maneka Sanjay Gandhi	Pilibhit	BJP	1	12th Pass	Rs.37,41,32,826~ 37Crore+	Rs.2,19,202~ 2Lacs+
65	Mekapati Rajamohan Reddy	Nellore	Yuva Jana Sramika Rythu Congress Party	2	Graduate Professional	Rs.36,17,46,068~ 36Crore+	Rs.0~
66	Mohammad Asrarul Haque	Kishanganj	INC	2	Post Graduate	Rs.46,16,629~ 46Lacs+	Rs.0~

67	Mohammed Faizal. P.P. Shankarrao	Lakshadweep	NCP	3	Post Graduate	Rs.5,38,119~5Lacs+	Rs.0~
68	Mohite Patil Vijaysinh	Madha	NCP	1	10th Pass	Rs.17,02,53,390~17Crore+	Rs.97,74,791~97Lacs+
69	Munde Gopinathrao	Beed	BJP	3	Graduate Professional	Rs.38,00,72,890~38Crore+	Rs.33,57,29,817~33Crore+
70	Murali Mohan Maganti	Rajahmundry	TDP	1	12th Pass	Rs.18,08,22,216~18Crore+	Rs.1,22,45,000~1Crore+
71	Naba Kumar Sarania	Kokrajhar	IND	3	12th Pass	Rs.21,55,559~21Lacs+	Rs.0~
72	Nalin Kumar Katil	Dakshina Kannada	BJP	1	10th Pass	Rs.87,89,001~87Lacs+	Rs.14,93,367~14Lacs+
73	Natubhai G. Patel	Dadra & Nagar Haveli	BJP	5	5th Pass	Rs.15,47,60,217~15Crore+	Rs.6,22,86,836~6Crore+
74	Nishikant Dubey	Godda	BJP	5	Post Graduate	Rs.15,56,33,719~15Crore+	Rs.0~
75	Nityanand Rai	Ujjainpur	BJP	1	Graduate	Rs.14,67,43,540~14Crore+	Rs.39,65,423~39Lacs+
76	Om Birla	Kota	BJP	2	Post Graduate	Rs.2,58,70,497~2Crore+	Rs.9,97,366~9Lacs+
77	P.C. Mohan	Bangalore Central	BJP	2	12th Pass	Rs.47,57,96,999~47Crore+	Rs.26,11,11,285~26Crore+
78	P.V. Midhun Reddy	Rajampet	Yuvajana Sramika Rythu Congress Party	1	Post Graduate	Rs.22,59,84,036~22Crore+	Rs.81,83,862~81Lacs+
79	Parbhubhai Nagarbhai Vasava	Bardoli	BJP	1	Others	Rs.1,59,09,957~1Crore+	Rs.13,53,400~13Lacs+
80	Parvesh Sahib Singh	West Delhi	BJP	1	Post Graduate	Rs.10,72,35,461~10Crore+	Rs.2,66,50,000~2Crore+
81	Patel Diliipbhai Manibhai	Anand	BJP	4	10th Pass	Rs.7,59,98,610~7Crore+	Rs.76,32,620~76Lacs+
82	Patil Chandrakant Raghunath	Navsari	BJP	7	10th Pass	Rs.74,47,61,133~74Crore+	Rs.40,58,88,122~40Crore+
83	Radadiya Vithalbhai Hansrajbhai	Porbandar	BJP	10	Graduate	Rs.7,30,03,639~7Crore+	Rs.3,16,000~3Lacs+
84	Rajendra Agarwal	Meerut	BJP	2	Post Graduate	Rs.88,03,517~88Lacs+	Rs.30,74,600~30Lacs+

TABLE 15 (Cont)

S. No.	Candidate (MPs of 2014)	Constituency	Party	Criminal Case	Education	Total Assets	Liabilities
85	Rajesh Ranjan urf Pappu Yadav	Madhepura	RJD	24	Graduate	Rs.8,12,42,966~ 8Crore+	Rs.9,56,306~ 9Lacs+
86	Raju Shetty	Hatkanangle	Swabhimani Paksha	12	10th Pass	Rs.98,96,221~ 98Lacs+	Rs.15,04,152~ 15Lacs+
87	Ram Vilas Paswan	Hajipur	LJP	2	Post Graduate	Rs.96,42,023~ 96Lacs+	Rs.0~
88	Rama Devi	Sheohar	BJP	6	Graduate Professional	Rs.30,85,91,850~ 30Crore+	Rs.0~
89	Rama Kishore Singh	Vaishali	LJP	4	Graduate	Rs.2,16,10,218~ 2Crore+	Rs.33,23,006~ 33Lacs+
90	Ramdas Chandrabhanji Tadas	Wardha	BJP	5	10th Pass	Rs.3,36,28,998~ 3Crore+	Rs.17,49,314~ 17Lacs+
91	Ramesh Jigajinagi	Bijapur	BJP	2	Graduate	Rs.8,94,29,828~ 8Crore+	Rs.53,05,043~ 53Lacs+
92	S.P.Y Reddy	Nandyal	Yuvajana Sramika Rythu Congress Party	2	Graduate Professional	Rs.21,95,78,079~ 21Crore+	Rs.10,77,820~ 10Lacs+
93	Sadhavi Niranjan Jyoti	Fatehpur	BJP	1	12th Pass	Rs.37,63,779~ 37Lacs+	Rs.1,76,616~ 1Lacs+
94	Santosh Kumar	Purnia	JD(U)	3	12th Pass	Rs.2,23,16,594~ 2Crore+	Rs.14,06,515~ 14Lacs+
95	Satish Dubey	Valmiki Nagar	BJP	3	10th Pass	Rs.60,61,576~ 60Lacs+	Rs.6,26,789~ 6Lacs+
96	Saumitra Khan	Bishnupur	AITC	1	12th Pass	Rs.11,97,255~ 11Lacs+	Rs.0~
97	Savitri Bai Foole	Bahraich	BJP	8	Graduate	Rs.11,21,491~ 11Lacs+	Rs.5,38,145~ 5Lacs+
98	Sawant Arvind Ganpat	Mumbai South	SHS	1	Graduate	Rs.1,30,67,446~ 1Crore+	Rs.0~
99	Shah Tariq Anwar	Katihar	NCP	1	Graduate	Rs.10,46,00,951~ 10Crore+	Rs.2,04,54,853~ 2Crore+
100	Shailesh Kumar urf Bulo Mandal	Bhagalpur	RJD	1	12th Pass	Rs.2,02,16,734~ 2Crore+	Rs.0~
101	Shewale Rahul Ramesh	Mumbai South Central	SHS	1	Others	Rs.1,33,04,397~ 1Crore+	Rs.1,05,02,345~ 1Crore+

102	Shrimant Chh. Udayanraje Pratsinha Bhonsale	Satara	NCP	23	12th Pass	Rs.60,60,89,208~ 60Crore+	Rs.3,12,941~ 3Lacs+
103	Sisir Kumar Adhikari	Kanathi	AITC	1	12th Pass	Rs.1,94,98,381~ 1Crore+	Rs.0~
104	Suresh Angadi	Belgaum	BJP	1	Graduate Professional	Rs.41,70,03,065~ 41Crore+	Rs.36,62,83,849~ 36Crore+
105	Sushil Kumar Singh	Aurangabad	BJP	5	Post Graduate	Rs.12,78,45,854~ 12Crore+	Rs.73,21,626~ 73Lacs+
106	Suvendu Adhikari	Tamiluk	AITC	2	Post Graduate	Rs.64,80,767~ 64Lacs+	Rs.0~
107	Swami Sachchidanand Hari Sakshi	Unnao	BJP	8	Doctorate	Rs.3,21,37,597~ 3Crore+	Rs.0~
108	Thambidurai. M	Karur	AIADMK	2	Doctorate	Rs.13,24,57,262~ 13Crore+	Rs.5,14,81,886~ 5Crore+
109	Udit Raj	North West Delhi	BJP	1	Doctorate	Rs.4,49,02,363~ 4Crore+	Rs.0~
110	Uma Bharti	Jhansi	BJP	13	5th Pass	Rs.1,43,76,218~ 1Crore+	Rs.0~
111	Upendra Kushwaha	Karakat	Rashtriya Lok Samta Party	4	Post Graduate	Rs.2,48,29,741~ 2Crore+	Rs.8,23,834~ 8Lacs+
112	V.Sathyabama	Tiruppur	AIADMK	2	Post Graduate	Rs.2,81,08,573~ 2Crore+	Rs.24,75,755~ 24Lacs+
113	Vichare Rajan Baburao	Thane	SHS	13	10th Pass	Rs.10,20,91,612~ 10Crore+	Rs.1,30,54,217~ 1Crore+
114	Vijay Kumar Singh	Ghaziabad	BJP	2	Doctorate	Rs.4,11,37,044~ 4Crore+	Rs.20,26,774~ 20Lacs+
115	Vinayak Bhaurao Raut	Ratnagiri Sindhudurg	SHS	5	Post Graduate	Rs.4,45,68,629~ 4Crore+	Rs.23,70,842

¹ ADR Data on Winners of Lok Sabha, 2014; available at http://www.myneta.info/ls2014/index.php?action=summary&subAction=winner_serious_crime&sort=candidate#summary

“Maharaj, what do you expect from people with such Moral Fiber? Yogendra Sao was made a Minister in the Jharkhand Cabinet in 2013 of INC. It is reported that he started his own outfit which was involved in extortion and even reached figures up to Rs.50 lakhs per month. He had to resign being a lawmaker when his anti-social activities gained prominence.”¹⁸

“Would you stop Sanjay, I can’t bear any more...”

“Maharaj, let’s go toward the scams,”

“Now, what is a scam?”

“When you are the Custodian of public money, and overcome by your greed, you discover and create ways and means to become its illegitimate owner, then all the events aiming the misappropriation of money constitute a Scam. In the Modern world, it’s usually the Media who creatively name the scam with a ballpark figure of disappeared money. Let me take you through the list of some scams and also scandals and controversies created by Politicos. Here are the few recent scams, scandals and controversies, Maharaj.”

RECENT SCAMS, SCANDALS AND CONTROVERSIES

Cash-for-Votes Scandal (2008):

The cash-for-votes scandal took place in the aftermath of CPI(M), one of the major pillars of UPA-I, withdrawing support to the Manmohan Singh Government over nuclear deal with the USA. On July 22, 2008, BJP members waved bundles of cash which they produced from bags in parliament during the debate, accusing the government of giving it to them in order to buy their support or abstention in the vote.

The UPA won the confidence vote with 275 in favor and 256 against.

On August 2, 2008 the BJP offered “documentary evidence” to support its allegation that three of its members Ashok Argal, Faggan Singh Kulaste and Mahaveer Bhagora had been bribed.

The evidence included transcripts of video recordings and explanatory letters from two of the MPs, all of which was passed to the investigatory committee that had been set up by parliament to probe the entire matter.

Then Rajya Sabha members Amar Singh and Ahmed Patel were alleged to have played major roles in this bribery scandal. Samajwadi Party had supported the confidence vote despite its well-known anti-US stand.

The parliamentary committee reported in December 2008 that it had found no evidence of bribery in the case of Amar Singh and Ahmed Patel.

18. <https://economictimes.indiatimes.com/news/politics-and-nation/former-jharkhand-minister-yogendra-sao-arrested-in-delhi/articleshow/44401462.cms> (accessed Feb, 2019)

An application was made to the Supreme Court on April 2, 2009 requesting that it ordered a Special Investigation Team to probe the affair.

Two former BJP MPs Faggan Singh Kulaste and Mahavir Bhagora and Sudheendra Kulkarni were arrested in this case. Even Amar Singh had to go behind bars in this case.

US diplomatic cables leaked on WikiLeaks purportedly say that payoffs had been made to MPs to ensure majority for the UPA government in the confidence vote. Nachiketa Kapur, a political aide of Congress leader Satish Sharma, is quoted in the US embassy cables as saying that a fund of Rs.50 crore had been formed to pay MPs.

Satyam Scam (2009):

Indian investors and shareholders were badly affected by the scam involving Satyam Computer Services. The Satyam Scam involved Rs. 14,000 crore and was one of the biggest scams in the corporate world.

Former Chairman Ramalinga Raju was involved in the scam, who kept everything under cover. He later confessed of falsifying the company's accounts by US \$1.47 billion. Later in the year, 46% share of Satyam was bought by Tech Mahindra, who absorbed and revived the company. It is believed that a few unnamed politicians also benefitted from the scam.

Commonwealth Games Scandal (2010):

The Commonwealth games 2010 proved disastrous for India's reputation and its ability to manage big-ticket international events. The government spent around Rs. 70608 crores on these games and it was revealed later on that massive corruption was involved in most of the CWG contracts. Apart from the contractual irregularities, player's residential complex also came for sharp criticism owing to its poor quality and standard. Suresh Kalmadi, then Chairman of the Organizing Committee of the Commonwealth Games, was the main accused in the corruption cases and he was arrested on April 26, 2011 for awarding illegal contracts to a Swiss firm for Timing-Scoring-Result (TSR) system for the 2010 Commonwealth Games causing a loss of Rs 95 crore to the exchequer. He was released on bail on January 19, 2012. At that time, Suresh Kalmadi was a renowned politician and a former member of the Congress Party. He was also a former Lok Sabha MP from Pune. Kalmadi's membership of the Indian National Congress Party was suspended after being arrested. On April 26, 2011 he was sacked from the post of president of the Indian Olympic Association. After conducting the investigation, CBI filed a report in the court seeking closure of the case saying no evidence was found in the matter against any of the persons and the company named in the FIR; matter is still pending trial.

2G spectrum scam (2010):

2G scam came out to be a bubble scam and was related to the deliberate undervaluation of 2G spectrum frequencies alleged to be allotted to favored mobile

companies like Unitech wireless, Reliance and Swan telecom, who in turn sold them to third parties for hefty sum of money. According to the CAG report, the shortfall between the money collected and the money which the law mandated to be collected is estimated to be Rs. 176,645 Crore. However, the actual loss was not only highly disputable but presumptive. The CBI court acquitted the main accused on the finding that no criminality was involved and there was complete lack of evidence.

Adarsh Housing Society Scam (2011):

Adarsh Housing Society is based in Mumbai of Maharashtra. In 2002, a request was made to the office of the Chief Minister to allot land for the construction of a housing complex for “the welfare of serving and retired personnel of the Defence Services.” It so happened that politicians from different political parties, bureaucrats and other officials colluded to bend several rules and perpetrate various acts of omission and commission in order to have the building constructed and then got themselves allotted flats in this premier property at artificially lowered prices. Names of three former Chief Ministers: Sushilkumar Shinde, Vilasrao Deshmukh and Ashok Chavan have cropped in as major beneficiaries of this scam. The Supreme Court has restrained Maharashtra government from acquiring the land on which Mumbai’s controversial Adarsh society building has been erected, and asked whether it would refund the money paid by the society for the land or not; CBI also tells the SC that it will challenge the Bombay HC order which quashed the sanction given by the Maharashtra governor to prosecute Ashok Chavan in the Adarsh housing society case. The case is pending before Court.

Bhanwari Devi – Mahipal Maderna Scandal (2011):

Bhanwari Devi, a 36 year old auxiliary nurse and midwife, from Rajasthan came into limelight after her husband alleged that Mahipal Maderna, the Congress minister in state government, got his wife abducted. The investigation of the case revealed that Bhanwari Devi was blackmailing Maderna and Congress legislator Malkhan Singh and demanded crores of Rupees based upon a CD in which Maderna and others were seen in a compromising position with Bhanwari Devi. It is alleged that Maderna and Malkhan got her eliminated with the help of supari killers. Maderna is under custody and court has framed charges against him.

Karnataka Video Clip Controversy (2012):

Politicians are expected to conduct themselves in a way that inspires confidence in general public so that they feel assured that their representatives are men and women of character but certain incidents had seriously damaged the image of public representatives in India. Two ministers of Karnataka assembly were caught watching porn video clips inside Karnataka Legislative Assembly. The two ministers were Laxman Savadi and C.C. Patil. The video clip related to a rave party of foreign tourists at Udupi beach where they were openly indulging in sexual activities. Later all ministers offered resignation letters and the party accepted their resignations.

Coalgate (2012):

Purported to be scam according to the draft report of CAG was based on pre-sumptive losses. The allegation was that the government did not invite competitive bids before allocating coal blocks to both private sector firms as well as public sector firms. The CAG estimated a presumptive loss of Rs. 1.86 lakh crores to the government exchequer. The CBI named a dozen Indian firms in the FIR. The government led by Coal Minister Sriprakash Jaiswal firmly denied any irregularity in the allocation of coal blocks and raised serious objections to the theory of pre-sumptive loss figure quoted by the CAG draft report. In some of the criminal trials pertaining to allocations to different companies, Coal Secretary and few other subordinate officials have been convicted by Special Court. However, no political leader of UPA has been found guilty.

UP NRHM Scam (2012):

UP National Rural Health Scam is first of its kind as it involves both siphoning of money meant for poor people of rural areas as well as multiple brutal murders. Around Rs. 10,000 crores of fund meant for health care deliveries in rural areas was looted by the ministers and officials of UP government. The NRHM scam came to the limelight after two Chief Medical Officers, Dr. Vinod Arya and Dr. B. P. Singh, were successively murdered in posh localities of the state capital, Lucknow. Deputy CMO Y.S. Sachan, supposed to be part of the conspiracy, was arrested, but died mysteriously in prison. Former Health and Family Welfare minister Babusingh Kushwaha, who was expelled from the ruling Bahujan Samaj Party, after the case came into light, was arrested by the CBI. Kushwaha switched over to BJP before 2012 assembly elections. Some other people who were under investigation have also been murdered or died under suspicious circumstances.

Chopper Scam (2012):

This purported scam is an example of bribery and corruption in India which involved many politicians, senior officials in India like former Indian Air Force Chief Air Chief Marshal S.P. Tyagi, and helicopter manufacturer Augusta Westland. The company has been alleged to have given bribe to get a contract for supplying 12 helicopters worth USD 610 million.

Tatra Truck Scam (2012):

The case against Vectra Chairman Ravi Rishi, and former Army Chief Gen. V.K. Singh had been registered by the Enforcement Directorate under the Prevention of Money Laundering Act (PMLA). The scam involved a sum of Rs. 14 Crore as bribe. The bribe was given to make way for purchasing 1,676 Tatra trucks for the Army. Later General V.K. Singh was elected as MP from Ghaziabad (UP) and was inducted as Minister of State for External Affairs in the Narendra Modi Government.

Rafale Scam (2017):

In 2012, UPA-II entered into MoU with Dassault Rafale (France) for supply of 126 aircraft out of which 18 aircraft were to be supplied fully built and remaining

108 aircraft were to be manufactured under license by Hindustan Aeronautics Limited (HAL) with transfer of technology from Dassault. Later in the year 2015, NDA government withdrew the tender for 126 aircraft and negotiated for 36 aircraft. In Jan 2016, India and France signed a MoU for acquisition of 36 aircraft i.e. Legacy Falcon 2000 series Jets. In Sep 2016, India and France signed an Inter-Governmental Agreement (IGA) for the acquisition of 36 aircraft. In Oct 2016, Reliance Group and Dassault announced the creation of a 51:49 joint venture named Dassault Reliance Aerospace Pvt Ltd. for Rafale deal. Congress raised aggressive suspicion of the deal with regard to high pricing and chosen partner of the deal. Upon brewing of controversy, former French President Francois Hollande stated before the media that Indian Government had asked the French Government to nominate Anil Ambani's Reliance Defence Ltd. as its India partner in the Rafale deal. The case went to Supreme Court wherein SIT investigation was sought. However, the Supreme Court declined to interfere. Right now, the case is pending hearing and decision in a review petition.

Maharaja Dhritarashtra almost fainted with the list of scams, whilst Sanjay, enthusiastically, attempted to go through the Law codified to combat poor Moral Fiber. Krishna could have wished a prevention and designed a Training Course for all the Elected Members of Parliament and inclusion of Moral Science as a mandatory subject in all the Schools.

Laws Related to Disqualification for Contesting Elections

Sections 7–11 of the RPA, 1951 talks about Disqualifications for the Members of Parliament or of State Legislatures. The disqualifications range from convictions under IPC, NDPS, PMLA etc. for sentences not less than two years, dismissals for corruption in Corporations which were under Government regime, holding office of profit and non-filing of expenses as mandated under the Act.

Upon conviction for offenses punishable under various Acts a person shall be disqualified, where the convicted person is sentenced to (i) only fine, for a period of six years from the date of such conviction; (ii) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release. The list of offenses is as under:

- Section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or Section 171E (offence of bribery) or Section 171F (offense of undue influence or personation at an election) or sub-section (1) or sub-section (2) of Section 376 or Section 376A or Section 376B or Section 376C or Section 376D (offenses relating to rape) or Section 498A (offense of cruelty toward a woman by husband or relative of a husband) or sub-section (2) or sub-section (3) of Section 505 (offense of making statement creating or promoting enmity, hatred or ill-will between classes or offense relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860); or

- the Protection of Civil Rights Act, 1955 (22 of 1955), which provides for punishment for the preaching and practice of “untouchability,” and for the enforcement of any disability arising therefrom; or
- Section 11 (offense of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or
- Sections 10 to 12 (offense of being a member of an association declared unlawful, offense relating to dealing with funds of an unlawful association or offense relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or
- the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or
- the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or
- Section 3 (offense of committing terrorist acts) or Section 4 (offense of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
- Section 7 (offense of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or
- Section 125 (offense of promoting enmity between classes in connection with the election) or Section 135 (offense of removal of ballot papers from polling stations) or Section 135A (offense of booth capturing) or clause (a) of sub-section (2) of Section 136 (offense of fraudulently defacing or fraudulently destroying any nomination paper) of this Act; or
- Section 6 (offense of conversion of a place or worship) of the Places of Worship (Special Provisions) Act 1991, or
- Section 2 (offense of insulting the Indian National Flag or the Constitution of India) or Section 3 (offense of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971 (69 of 1971); or
- the Commission of Sati (Prevention) Act, 1987 (3 of 1988); or
- the Prevention of Corruption Act, 1988 (49 of 1988); or
- the Prevention of Terrorism Act, 2002 (15 of 2002).

Further under Section 8 (2), a person convicted for the contravention of (a) any law providing for the prevention of hoarding or profiteering; or (b) any law relating to the adulteration of food or drugs; or (c) any provisions of the Dowry Prohibition Act, 1961 and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

Under Section 8 (3), a person convicted of any offense and sentenced to imprisonment for not less than two years other than any offense referred to in sub-section (1) or sub-section (2) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

Section 8A provides disqualification on ground of corrupt practices and prescribes that the case of every person found guilty of a corrupt practice by an order under section 99 shall be submitted, as soon as may be within a period of three months from the date such order takes effect, by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period, provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 99 takes effect.

Section 8A(2) provides that any person who stands disqualified under section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975, may, if the period of such disqualification has not expired, submit a petition to the President for the removal of such disqualification for the unexpired portion of the said period. Under Section 8A(3), before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.

Section 9 provides disqualification for dismissal for corruption or disloyalty, whereby, a person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

Section 9A provides disqualification for Government contracts, etc. whereby a person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government. The section explains that for the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

Section 10 provides disqualification for office under Government company whereby a person shall be disqualified if, and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five per cent share.

Section 10A provides disqualification for failure to lodge account of election expenses whereby if the Election Commission is satisfied that a person has failed to lodge an account of election expenses, within the time and in the manner required by or under this Act and has no good reason or justification for the failure, the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

PART II

THE ELECTION INDUSTRY OF INDIA



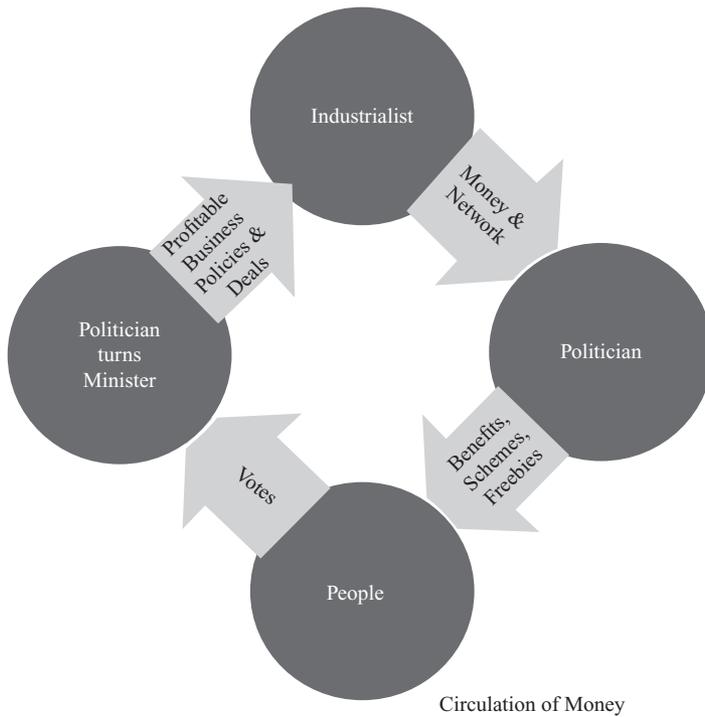
CHAPTER 6

THE POLITICIANS ON SALE

Politician Investment – A highly Profitable Deal!

“O Sanjay, I wanted to foresee the future of my survived progeny to solace my withered soul. I, who witnessed the holocaust and massive destruction of human life during the epic war of Mahabharata, desperately crave for the glorified saga of my posterity but on the contrary, my heart tremored more than ever attempting to assimilate the disfigured Moral Fiber of my people. Blind, as I am, can only pay my gratitude to the lord to protect me from personally seeing what I couldn't endure. Could I still take some recourse in the fact that democratic politicians would still need to win people's hearts in one way or the other to win the elections? This could be a soothing concoction for my ailing heart! Even if they are goons, they do act as protectors for a group of people. And best! No blood bath for the throne. I still want to be hopeful that some goodness stays secretly stationed in the hearts during this Kalyuga. The prospective candidates would atleast undergo some internal revolution to bring about that compassionate connect to win the hearts of a few people to win the political position. At least they are doing some genuine soul churning to dig some morality out. Tell me Sanjay, don't you agree?”

“Maharaj, I would only seek forgiveness from the lord for the conscious blindness that you had lived with during Mahabharata events” and Sanjay, staying brutally honest as ever, continued, “As far as the goodness is concerned, I would offer you partial solace, the small players of the game, genuinely may try to portray some bona fide and take care of their voters. But! Maharaj, let's talk about the big and successful players, who rose to the heights in no time using the evil current. The most powerful evil current is 'Money.' The politicians need huge money to spend in elections. At local level, they may win through Muscle Power but at upper levels, they need momentum created by money. Maharaj, election is all about the Circulation of Money, let me show you a flow chart that openly defeats the purpose of Democracy.



“Maharaj, no one is oblivious of the fact that if someone pays the money, they trade something in return! And by this universally accepted equation of give and take, the businessman’s donations should actually be seen as investments, for which he shall seek return once his candidate wins. Let’s add more weight to this equation. If this businessman invests monumentally in a candidate then he would want a mighty return and hence we may conclude, if a businessman pays for almost all election expenses for a candidate, then, if the candidate comes to power, this power actually vests in the hands of this businessman. In the democracy then, the real power of the rule is not in the office of the Prime Minister or Ministers, it’s in the hands of the investors in elections too. These investors may be industrialists, foreign enemies or international lobbyists. This way, the democratic government would be nothing, but a handmaid puppet run in proxy manner by industrialists. So the fabric of democracy would turn into ‘WE THE BUSINESSMEN’ instead of ‘We the People’ and government, though is elected by the people, would always be under compulsion to work at the commands of such investors instead of looking at the interests of people.”

“Sanjay, as much as my ancient mind understands, this candidate, has sold his soul. This money costs him his conscious and depriving him of his ownership over himself, shrinking him to a mere puppet. He can said to be living someone else’s life.”

They both recalled Krishna's wise words from Shrimad Bhagavad Gita,

श्रेयान्स्वधर्मो विगुणः परधर्मात्स्वनुष्ठितात् |
स्वधर्मे निधनं श्रेयः परधर्मो भयावहः || 35||
अर्जुनउवाच |

अथ केन प्रयुक्तोऽयं पापं चरति पूरुषः |
अनिच्छन्नपि वाष्णोय बलादिव नियोजितः || 36||
श्रीभगवानुवाच |

काम एष क्रोध एष रजोगुणसमुद्भवः ||
महाशनो महापाप्मा विद्ध्येनमिह वैरिणम् || 37||

śhreyān swa-dharmo viguṇaḥ para-dharmāt sv-anuṣṭhitāt
swa-dharme nidhanam śhreyaḥ para-dharmo bhayāvahaḥ

- Krishna to Arjuna, Text 35

arjuna uvācha

atha kena prayukto 'yam pāpam charati pūruṣaḥ
anichchhann api vārṣṇeya balād iva niyojitaḥ

- Arjuna to Krishna, Text 36

śhrī bhagavān uvācha

kāma eṣha krodha eṣha rajo-guṇa-samudbhavaḥ
mahāśhano mahā-pāpmā viddhyenam iha vairiṇam

- Krishna to Arjuna, Text 37

- Chapter 3, Shrimad Bhagavad Gita

Meaning:

It is far better to perform one's natural prescribed duty, though tinged with faults, than to perform another's prescribed duty, though perfectly. In fact, it is preferable to die in the discharge of one's duty, than to follow the path of another, which is fraught with danger.

Arjuna asked: Why is a person impelled to commit sinful acts, even unwillingly, as if by force, O descendent of Vrishni (Krishna)?

The Supreme Lord said: It is lust alone, which is born of contact with the mode of passion, and later transformed into anger. Know this as the sinful, all-devouring enemy in the world.

"I can recall Krishna's words for such people who instead of following their own path, walk on someone else's trajectory due to their lust. They can devour the whole world for their hunger. Braggadocio, deceitful, greedy, callous, ruthless, self-centered, autocratic, dogmatic, narcissistic and untrustworthy, this person is in turn fatal for the land he rules. Why would someone even step up to walk the path of sin? Is goodness no good to win the election?"

"Maharaj, even the goodness needs money to be publicized. In Kalyuga, only money can take one to masses. A morally sound candidate with integrity and ZERO

money is dysfunctional to political parties. This is the reason Parties nominate, either gangsters or rich ones; these candidates can ensure the wins through their doles. One may contest independently and win also but a single person would be ousted at the Big house of Parliament and be non-impactful. All I infer is that candidates do not win democratic elections merely with their moral integrity and social work, it's extremely important to build a wave of their popularity. To generate this wave, one needs to generate a momentum, to generate this momentum one needs to fuel in money. The plethora of money required to win a Parliamentary Election in democratic India is gigantic. Let me show you the data of 2014 Parliamentary Elections filed with Election Commission of India.” (Refer to Table 11.)

TABLE 11 LOK SABHA 2014 ELECTION EXPENDITURE: AN ANALYSIS OF DECLARATION OF LUMPSUM AMOUNTS BY POLITICAL PARTIES TO THEIR MPS¹

SL. NO.	Party	Total Lok Sabha MPs.	No. of MPs who have declared receiving aid from party	Total amount declared by MPs as received from party	No. of MPs to whom aid was given by the party	Total amount declared by party as given to MPs
1	BJP	282	229	Rs 6,589.22 lakhs	159	Rs 4,875.03 lakhs
2	INC	44	18	Rs 403.60 lakhs	7	Rs 270.00 lakhs
3	NCP	6	6	Rs 279.70 lakhs	5	Rs 250.00 lakhs
4	CPI	1	1	Rs 21.83 lakhs	0	
5	CPM	9	9	Rs 265.46 lakhs	4	Rs 128.50 lakhs
	TOTAL	342	263	Rs 7559.82lakhs	175	Rs 5523.53 lakhs

“However, if the press reports and whispers of the politicians are to be believed a whopping Rs.18,000 crores were to be spent by BJP alone² in 2014 General Election. Though media reports would vary in this aspect, as per the sources of few other media reports, this figure was more than Rs.700 crores.^{3 4}

1. <https://adrindia.org/content/lok-sabha-2014-election-expenditure-analysis-declaration-lumpsum-amounts-political-parties> Press Release, National Election Watch & Association for Democratic Reforms, (accessed Feb, 2019).
2. <https://www.firstpost.com/politics/rs-18000-cr-will-be-spent-in-election-2014-and-much-of-it-in-black-1420709.html> (accessed Feb, 2019)
3. <https://www.rediff.com/news/special/bjp-has-spent-rs-1760-billion-on-elections/20190125.htm> (accessed Feb, 2019)
4. <https://www.indiatoday.in/india/story/bjp-congress-spent-more-than-rs-1200-crore-in-elections-in-2014-236082-2015-01-17> (accessed Feb, 2019)

In a way, the actual and total expenses, cannot be known because mostly, the black or cash money is spent.”

“This money looks humongous! How do political parties get hold of so much of money? Tell me Sanjay, what do you see?” Maharaja rolled his eyes in shock.

“Maharaj, I would elaborate all legitimate ways first. However, be prepared to assume that the loopholes are exhaustively utilized as per their own opportunities and aims. Political parties also have some predefined legal ways to earn money, the Representation of People’s Act legally allow parties to accept funds as Voluntary Funding, Corporate Donations and Foreign Aid.”

Law regarding voluntary contribution from an individual or a company

According to Section 29B of Representation of People’s Act, every political party may accept any amount of contribution voluntarily offered to it by any person or company other than a Government company, provided that no political party shall be eligible to accept any contribution from any foreign source defined under clause (e) of Section 2 of the Foreign Contribution (Regulation) Act, 1976 (later changed in to Act of 2010). Recent amendment in FCRA Act, 2010 changed the definition of “Foreign Company” and “Foreign Source.” Related recent amendments as well as amendments of 2010 Act have been given retrospective effect from 1976. Now, a company cannot be regarded as foreign if an Indian embraces 50% or more shares in that company. This represents that parties can accept donations from an Indian subsidiary of a foreign company. Recently, Ministry of Home affairs published following note on its website thereby clarifying the meaning of “Foreign Source”⁵:

**Press Information Bureau
Government of India
Ministry of Home Affairs
07-March-2018 16:44 IST
Amendment in FCRA**

It is a fact that political parties cannot receive contribution from any foreign source as defined under Clause (c) of Section 2 of the FCRA, 1976. Section 29 B of the Representation of the Peoples Act, 1951 also prohibits political parties from receiving foreign contributions.

Clause 217 of the Finance Bill, 2018 seeks to amend Section 236 of the Finance Act, 2016 which relates to amendment to sub-clause (vi) of the clause(i) of Sub-section(1) of Section 2 of the Foreign Contribution (Regulation) Act, 2010. The proviso to the said sub-clause inserted under the Finance Act, 2016 states that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999 (42

5. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=177082> (accessed Feb 2019)

of 1999), or the rules or regulations made thereunder, then, notwithstanding the nominal value of share capital of a company being more than one half of such value at the time of making the contribution, such company shall not be deemed to be a foreign source, if the foreign investment is within the limit specified under the Foreign Exchange Management Act, 1999 or the rules or regulations made there under.

The main purpose of the proposed amendment is to ensure that the definition of “foreign source” remains consistent with the FDI Policy of the Government of India; and provisions of the Companies Act, 2013 and the Companies (Corporate Social Responsibility Policy) Rules, 2014. It is proposed to bring the said amendment with effect from the 5th August, 1976, the date of commencement of the Foreign Contribution (Regulation) Act, 1976, which was repealed and re-enacted as the Foreign Contribution (Regulation) Act, 2010.

This was stated by the Minister of State for Home Affairs, Shri Kiren Rijiju in written reply to a question in the Rajya Sabha today.

Under **Section 29C of the RPA, 1951** it is made mandatory for the political parties to submit to the Election Commission a list of donations they received of over Rs. 20,000 in Form 24-A. In case, a political party fails to submit such a list, such political party shall not be entitled to tax relief under the Income Tax Act.

Under **Section 29C of the RPA, 1951** the treasurer of a political party or any other person authorized by the political party shall, in each financial year, prepare a report in respect of the contribution in excess of twenty thousand rupees received by such political party from any person in that financial year.

Laws related to the situation where the income from contribution not to be included in total income of the year

As per Section 13A of the I.T Act, any income of a political party which is chargeable under the head “Income from house property” or “Income from other sources” or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party: Provided that—

- (a) such political party keeps and maintains such books of account and other documents as would enables the Assessing Officer to properly deduce its income therefrom;
- (b) in respect of each such voluntary contribution in excess of twenty thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution.

Donors, who give voluntary contributions to political parties, enjoy IT exemptions

Any contribution made by an individual and a company to a political party (registered under Section 29A of the Representation of the People Act, 1951) is fully deductible under Section 80GGC and Section 80GGB respectively of the Income Tax Act.

“Maharaj, on the heels of demonetization in 2016, the finance bill or the money bill 2017 was introduced which in fact legalized corruption related to political donations. Now any corporation can donate any amount to a political party, any foreign company can literally run the government from their homeland by this funding. No company must reveal to which party they are paying their donations to, this non-transparency in the system is a blessing for political parties and an absolute disguise for the people. Now that the companies needn't even show the political funding in their balance sheets as to where this money has gone, in that case, any individual may float a company overnight for this purpose only. Moreover, now this donation is also through electoral bonds, the bonds are issued in multiples of ₹1,000, ₹10,000, ₹1 lakh, ₹10 lakh and ₹1 crore and are available at specified branches of State Bank of India. They can be bought by the donor with a KYC-compliant account which is like a new currency that anyone can buy and sell.”

“Surprisingly, Prime Minister Narendra Modi, who promised to make political funding more transparent, made it more opaque.”⁶

“The Companies Act 1956, Section 182(1) had provided a ceiling in respect of political donations which was 7.5% of its net average net profits, the same was amended by Section 154 of the Companies Amendment Act, 2017. The amended Section 182(1) reads, ‘Notwithstanding anything contained in any other provision of this Act, a company other than a Government company and a company which has been into existence for less than three financial years, may contribute any amount directly or indirectly to any political party.’ Further the tab of anonymous donations was increased from Rs.2,000 to Rs.20,000 and Electoral Bonds were introduced. But the key element in this scheme is that Electoral Bonds will not bear the name of the donor, nor can the beneficiary party be revealed. In other words, the whole process will be anonymous.”

“I now understand it Sanjay, this way, they may conveniently disclose any amount which they wish to bring on record.”

“Maharaj, yes, things are projected to be legal to suit the public eyes, however, the truths are far from such created perceptions. That is how the political funding works, else where do you get large chunks of cash moneys, which is caught during elections?”

“Why are the Arjunas silent, they mustn't be, I want to believe so!”

“Maharaj, Arjunas are filing RTIs and PILs in the Courts. They are activists and advocates, trying in their individual capacity to curb the menace of the system.”

6. <https://www.firstpost.com/politics/finance-bill-modi-govt-just-made-political-funding-more-opaque-transparency-remains-a-promise-3348318.html> (accessed Feb, 2019)

“Are they succeeding Sanjay?”

“Not much, Maharaj, on the contrary, the Political Parties claim exemption from the purview of being a Public Authority under Section 2(h) of the RTI Act, this is what the ECI had replied to a query from Pune-based Vihar Dhurve who had sought to know through RTI the details of donations collected by the six national parties—the BJP, Congress, BSP, NCP, CPI and CPM—and the Samajwadi Party through newly introduced electoral bonds that:—”

“Requisite information is not available in the Commission. This is related to political parties and they are out of purview of the RTI. They may submit information of donation/amount collected through by Electoral bonds in their contribution report for the financial year 2017-18 in the ECI for which the due date is September 30, 2018.”⁷

“The PILs are filed, few things have improved and many more still require change to provide real respite to people of India, here are a few excerpts,”

In *Common Cause A Registered Society v. Union of India*⁸ (1996), the primary contention raised was that the cumulative effect of the three statutory provisions, namely, Section 293A of the Companies Act 1956, Section 13A of the Income-tax 1961 and Section 77 of the Representation of People Act 1951 is, to bring transparency in the election-funding. People of India must know the source of income and expenditure incurred by the political parties and by the candidates in the process of election. It was also contended that the mandatory provisions of law are being violated by the political parties with impunity. It was further contended that the Election Commission of India has from time to time issued instructions which have been published in the compendium of instructions on Conduct of Elections (1996). The Election Commission would be justified in asking a political party to file before it the account of expenditure incurred or authorized by a political party in connection with the election of its candidates during the course of general election/election. Infact, the Supreme Court had held and directed as under:

- I. That the political parties are under a statutory obligation to file return of income in respect of each assessment year in accordance with the provisions of the Income Tax Act. The political parties - referred to by us in the judgment—who have not been filing returns of income for several years have prima facie violated the statutory provisions of the Income Tax Act as indicated by us in the judgment.
- II. That the Income-tax authorities have been wholly remiss in the performance of their statutory duties under law. The said authorities have for a

7. Press Trust of India, Political Parties out of the Purview of RTI: Election Commission; <https://www.indiatoday.in/pti-feed/story/political-parties-out-of-purview-of-rti-election-commission-1242982-2018-05-27>, Press Trust of India, (accessed Feb, 2019)

8. *Common Cause (A Registered Society) v. Union of India*, (1996) 2 SCC 752 :JT 1996 (3) 706: 1996 SCALE (3)258 : JT 1996 (3) 706.

long period failed to take appropriate action against the defaulter political parties.

- III. The secretary, Ministry of Finance, Department of Revenue, the Government of India shall have an investigation/inquiry conducted against each of the defaulter political parties and initiate necessary action in accordance with law including penal action under Section 276CC of the Income Tax Act.
- IV. The Secretary, Ministry of Finance, Department of Revenue, Government of India shall appoint an inquiring body to find out why and in what circumstances the mandatory provisions of the Income Tax Act regarding filing of return of income by the political parties were not enforced any officer/officers found responsible and remiss in the inquiry be suitably dealt with in accordance with the rules.
- V. A political party which is not maintaining, audited and authenticated, accounts and has not filed the return of income for the relevant period, cannot, ordinarily, be permitted to say that it has incurred or authorized expenditure in connection with the election of its candidates in terms of Explanation 1 to Section 77 of the R.P. Act.
- VI. That the expenditure, (including that for which the candidate is seeking protection under Explanation I to Section 77 of the R.P. Act) in connection with the election of a candidate—to the knowledge of the candidate or his election agent—shall be presumed to have been authorized by the candidate or his election agent. It shall, however be open to the candidate to rebut the presumption in accordance with law and to show that part of the expenditure or whole of it was in fact incurred by the political party to which he belongs or by any other association or body of persons or by an individual (other than the candidate or his election agent). Only when the candidate discharges the burden and rebuts the presumption, he would be entitled to the benefit of Explanation 1 to Section 77 of the R.P. Act.
- VII. The expression “conduct of election” in Article 324 of the Constitution of India is wide enough to include in its sweep, the power of the Election Commission to issue—in the process of the conduct of elections—directions to the effect that the political parties shall submit to the Commission for its scrutiny, the details of the expenditure incurred or authorized by the political parties in connection with the election of their q respective candidates.

The writ petition was allowed with costs in the above terms and costs of Rs. 20,000 was directed to be paid by the Union of India. While passing above guidelines, Supreme Court observed that from where money comes nobody knows. In a democracy where rule of law prevails this type of naked display of black money, by violating mandatory provisions of law, cannot be permitted. Court observed that under Article 324 of the Constitution of India, Election Commission can issue suitable directions to maintain purity of election and to bring transparency in the process of election:

“Superintendence and control over conduct of election by EC include scrutiny of all expenses incurred by a political party, a candidate or any other association

or body of persons or by any individual in course of election. “Conduct of election” to include in its sweep, power to issue directions—in process of conduct of an election—to the effect that political parties shall submit to EC, for its scrutiny, details of expenditure incurred or authorized by parties in connection with election of their respective candidates.”

“Maharaj, no real compliances have happened and black money is deep rooted in the political funding despite the above judgment by Supreme Court. Chief Information Commissioner has also passed following directions:

In *SC Aggarwal v. INC and Ors.*⁹ (CIC Order, 2011), Chief Information Commission (CIC) gave decision dated April 29, 2008, wherein transparency in the functioning of Political Parties has been underlined. Relevant extract is quoted below:-

“28. Political Parties are a unique institution of the modern constitutional State. These are essentially civil society institutions and are, therefore, non governmental. Their uniqueness lies in the fact that in spite of being non governmental, Political Parties come to wield or directly or indirectly influence, exercise of governmental power. It is this link between State power and Political Parties that has assumed critical significance in the context of the Right of Information—an Act which has brought into focus the imperatives of transparency in the functioning of State institutions. *It would be facetious to argue that transparency is good for all State organs, but not so good for the Political Parties which control the most important of those organs.* For example, it will be a fallacy to hold that transparency is good for the bureaucracy but not good enough for the Political Parties which control those bureaucracies through political executives.”

The Commission has further observed:

“38. The laws of the land do not make it mandatory for Political Parties to disclose the sources of their funding, and even less so the manner of expending those funds. In the absence of such laws, the only way a citizen can gain access to the details of funding of Political Parties is through their Income Tax Returns filed annually with Income Tax authorities. This is about the closest the Political Parties get to accounting for the sources and the extent of their funding and their expenditure. There is unmistakable public interest in knowing these funding details which would enable the citizen to make an informed choice about the Political Parties to vote for. The RTI Act emphasizes that “democracy requires an informed citizenry,” and that transparency of information is vital to flawless functioning of constitutional democracy. It is nobody’s case that while all organs of the State must exhibit maximum transparency, no such obligation attaches to Political Parties. *Given that Political Parties influence the exercise of political power, transparency in their organization, functions and, more*

9. *SC Aggarwal v. INC and ors*, File No. CIC/SM/C/2011/001386 & File No. CIC/SM/C/2011/000838, Central Information Commission.

particularly, their means of funding is a democratic imperative, and, therefore, is in public interest”.

“77. The Political Parties are the life blood of our polity. As observed by Laski ‘The life of the democratic state is built upon the party system.’ Elections are contested on party basis. The Political Parties select some problems as more urgent than others and present solutions to them which may be acceptable to the citizens. The ruling party draws its development programs on the basis of its political agenda. It is responsible for the growth and development of the society and the nation. Political Parties affect the lives of citizens, directly or indirectly, in every conceivable way and are continuously engaged in performing public duty. It is, therefore, important that they became accountable to the public.”

“This is a shocking revelation Sanjay. The Arjunas are all helpless. They need Krishna’s wisdom!”

“Maharaj, Krishna’s wisdom shall come, he has promised to come to rescue when required the most. We shall have faith and keep digging Krishna’s wisdom inside our inner conscious!” Sanjay closed his eyes and bowed in utmost reverence.

“What about the public uproar? Sanjay, you said democracy gives voice to people, isn’t it right? Are they silent like our times?”

“Maharaj, media reports are openly filled with Political-Business Houses alliances. For example, Prime Minister Modi has a very old alliance with Gujarati businessmen Ambanis and Gautam Adani.¹⁰ It is said that these people had been funding Modi since he was Gujarat Chief Minister and their businesses had been sky rocketing since then. It was all over in Media reports that Modi used Adani’s personal aircrafts¹¹ to conduct his rallies for contesting 2014 Elections. Some of the compendium is as follows.”

Ironically, the biggest black money case that has come up before the SIT so far is that of the Adani group, promoted by Gautam Adani, one of Modi’s closest associates. It is in his chartered aircraft that the soon-to-be prime minister zipped around India, accusing the incumbent government of not fighting corruption. The Adani group allegedly took out over Rs 5,000 crore to tax havens, using inflated bills for the import of power equipment from South Korea and China, the SIT on black money was told by the Directorate of Revenue Intelligence (DRI) and the Enforcement Directorate (ED).

According to a senior ED official associated with the SIT, if the Adani case reaches its logical conclusion, the group will have to pay a fine of around Rs 15,000 crore. “It is a watertight case,” he said, about the trail of documents showing how the group diverted Rs 5468 crore to Mauritius via Dubai. The Adani

10. <https://thewire.in/books/the-symbiotic-careers-of-modi-and-adani> (accessed Feb, 2019)

11. <https://www.telegraphindia.com/india/modi-flies-into-brand-cloud/cid/182148> (accessed Feb, 2019)

group vehemently denies any wrongdoing. Modi, after his rhetoric-filled ride to power, has been silent.¹²

“Adani got a clean chit from DRI in 2017¹³ after Modi came into power. Maharaj, some Arjunas from the customs department went for appeal challenging this clean chit.¹⁴ All this is connected and provides reasons to believe that Modi has the give and take association with the businessman. Similarly, media reports are filled with the news of beneficial deals assisted by Modi for Anil Ambani.^{15 16} This alliance is a National Secret and highlighted by various quarters and opposition parties. All, educated, intellectual class citizens of the country have reasons to believe in this business-politico partnership but since there is no illegality about it, nothing can be done about it merely on Moral Breach.”

“Gosh! This is gross, the lives of 1.35 billion Indians are commanded by Baniyas (traders). This is sick, why would they ever work for public welfare, the aim of Baniyas is to earn, more and much more money than ever. That’s why they were never made rulers in our times. They love money, not people. This is too bad. I feel bad that even Arjunas are not able to do much! This legal democratic functioning isn’t as flawless as I felt!”

“Maharaj, people from foreign lands also fund political parties, bigger the share, bigger the ownership.”

“Hey Krishna! This Modern *Kalyugi* Politics is too complex. I am sure some Arjuna must have tried to stop it.”

“Maharaj, let me try to trace some Arjunas but meanwhile let me mention that some of the major political parties also received illegal political funding in the past. However, recently through change of definition of ‘Foreign Company’ in FCRA Act, 2010, such past action of political parties, declared to be illegal by Delhi High Court, have been made legal. See what happened in that case.”

“Maharaj, in the case of *Association for Democratic Reforms & Anr. v. Union of India*¹⁷ (DHC, 2014), Delhi High Court gave it judgment on March 28, 2014, which in fact led to the amendment of FCRA Act, 2010. Filed in public interest,

12. <https://thewire.in/books/black-money-investigation-a-feast-of-vultures> (accessed Feb, 2019)

13. <http://epaperbeta.timesofindia.com/Article.aspx?eid=31804&articlexml=Adani-Group-gets-clean-chit-in-overvaluation-case-28102017009031> (accessed Feb, 2019)

14. <https://indianexpress.com/article/india/gautam-adani-dri-authoritys-clean-chit-to-firms-is-illegal-customs-appeal-5060183/> (accessed Feb, 2019)

15. <https://www.freepressjournal.in/latest-news/pm-narendra-modi-opened-door-to-allow-anil-ambani-steal-rs-30000-crore-from-air-force-rahul-gandhi/1457399> (accessed Feb, 2019)

16. <https://economictimes.indiatimes.com/news/politics-and-nation/rafale-a-direct-deal-between-pm-narendra-modi-and-anil-ambani-congress/articleshow/65586701.cms> (accessed Feb, 2019)

17. *Association for Democratic Reforms & Anr. v. Union of India*, (2014)126 SCL 1(Delhi).

ADR asserted that there had been blatant violation of the Foreign Contribution (Regulation) Act, 1976 (hereinafter referred to as ‘FCRA’) by political parties which include the Respondents, which include BJP and Congress. ADR also asserted that Section 29(B) of the Representation of People Act, 1951 prohibits political parties from taking donations from Government Companies as also from a foreign source and that FCRA prohibits acceptance of foreign contributions by political parties as per the mandate of Section 4(1)(e) thereof. Delhi High Court found both BJP and Congress guilty of accepting donations from a foreign company, in breach of the Foreign Contribution Regulation Act (FCRA), 1976. Afterwards, while the convicted parties went for appeal in Supreme Court, the Finance Bill of 2017 under the regime of BJP / NDA, amended FCRA with retrospective effect to validate all foreign funds received by any political party since 1976. Later on, the appeal was withdrawn by political parties. The political parties appeared together to save themselves, discarding all moral reasonings or standards.”

In Association for Democratic Reforms case (2014) the plea raised was that at the time of accepting donations, some political parties had violated provisions of FCRA Act and therefore it challenged donations taken by parties from Government Companies as also from foreign source, prohibited under Section 4(1)(e) of FCRA Act. The Hon’ble Delhi High Court held:

- “1. Political parties had not disputed that more than one half of nominal value of share-capital of companies was held by company incorporated outside India. Therefore, present case was squarely covered under Section 2(e)(vi)(c) of Act.
2. The donations in favour of Respondents were to be construed as emanating from foreign source which fell within prohibition imposed by Section 4 of Act by which acceptance of foreign contributions by Respondent was banned.
3. Prima-facie acts of Respondents inter-se had clearly fallen foul of ban imposed under Act as donations accepted by political parties from foreign sources within meaning of law.”

“Maharaj, I shall now reveal that an Arjuna, i.e. ADR Society, has provided complete event details regarding the immoral design of political parties to dupe the public of their belief, faith and trust. ADR challenged the Foreign Political Funding before Supreme Court of India and on July 2, 2018 the Supreme Court issued notice to the Central Government seeking response to the plea that the recent amendments to the Foreign Contribution (Regulation) Act (FCRA), 2010 have opened doors to unlimited political donations from foreign firms and that the amendments introduced in FCRA 2010 by Section 236 of Finance Act, 2016 and by Section 217 of the Finance Act, 2018 be declared “void, illegal and unconstitutional” as they have “opened the floodgates to unlimited corporate donations to political parties and anonymous financing by Indian as well as foreign companies which can have serious repercussions on the Indian democracy. The petition stated that the Finance Act, 2016 has amended the Foreign Contribution Regulation Act (FCRA), 2010 to allow foreign companies with subsidiaries in India to fund political parties in India. Therefore, exposing the

Indian politics and democracy to international lobbyists who may want to further their agenda. The petition further stated that amendment is effected from 1976 and the same is an attempt to over-turn the judgment passed by the Delhi High Court. The Petition further stated that this will lead to the creation of shell companies and rise of benami transactions to channelize the undocumented money into the political and electoral process in India.”¹⁸

“Oh Sanjay! This is painful. Are all the parties same?”

“More or less, you can choose between lesser evil if you wish but as per Media reports, BJP’s Corporate funding¹⁹ is much higher than Congress’s probably due to highly profitable returns to corporate investments after 2014 Parliamentary Elections. Moreover, there are other interested people who fund political parties and candidates’ elections like Underworld Dons, Builders, Mercenaries, Foreign Political Consultants etc.”

“I get it Sanjay! Is there any ray of hope somewhere? Why can’t people fund the honest candidates?”

“Yes Maharaj, parties do go for crowdfunding drive in order to collect funds.^{20 21} However, this money can never substantiate what the Big Businessmen can offer. Further, the parties may always claim to have received unscrutinizable funds (i.e., below Rs.20,000) from individuals as they do not have to show any receipts or declare sources. Moreover, the value of donations can be unlimited. There are media reports that political parties earned Rs.7833 crore rupees from unknown sources²² in last ten years. The loopholes in the law books assists them in keep their financial secrecy.”

“Eye opening! Any other secrets you wish to open for me Sanjay?”

“Relax Maharaj, we may soon see how all this Money has to be spent” and Sanjay bowed his head with joined palms.

Maharaja nodded with the mild anticipation of what Kalyugi spending could bring.

18. <https://adrindia.org/content/win-activists-sc-issues-notice-centre-plea-challenging-foreign-political-funding> (accessed Feb, 2019)

19. https://economictimes.indiatimes.com/articleshow/64281830.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed Feb, 2019)

20. <https://adrindia.org/content/cash-starved-congress-plans-40-day-crowdfunding-drive-after-aap-and-shiv-sena-together-get> (accessed Feb, 2019)

21. <https://www.hindustantimes.com/delhi-news/aap-is-kangaal-donate-so-we-can-contest-polls-appeals-party-chief-arvind-kejriwal/story-INbz7tVO7bKjibGBoX9xuO.html> (accessed Feb, 2019)

22. <https://timesofindia.indiatimes.com/india/political-parties-received-rs-7833-crore-funding-from-unknown-sources-in-11-years-report/articleshow/56763585.cms> (accessed Feb, 2019)

CHAPTER 7

THE RETAIL SHOPPING

Election - An adventurous Consumerism of the Opulent Players!

Maharaja waited eagerly for Sanjay to elaborate on Kalyugi Consumerism. Sanjay, however, was more interested in reading the news items of May 2014, November 2018 and December 2018 as follows:

The Income Tax department has so far seized about Rs 7.09 crore unaccounted cash, in several cases. Smuggled gold worth Rs 2.82 crore was also seized. The Excise department has so far seized over four lakh bulk liters of illicit liquor valued at Rs 3.45 crore.¹

Nearly Rs 137 crore cash has been seized by authorities across Telangana till now. This is nearly Rs 50 crore more than that seized during 2014 elections held for the combined Andhra Pradesh.²

Rs 81.29 crore cash, liquor worth 8 crore seized ahead of elections in Telangana.³

The Election Commission seized Rs 161.47 crore in cash from the five states where elections were just held.⁴

“Sanjay!” Maharaja rolled his eyes in anxiety, “could you help me understand, why is this in news? Why they are seizing someone’s money? How is this related to Elections?”

“Maharaj, look closely, Election Commission seized Rs.161 crores during Assembly Elections of 5 states and whereas the total expenditure of all parties combined filed with EC in 2014 was a total of Rs.75 crores for Parliamentary Elections from all States, what a contrast! Clearly, the seized money is black

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1. https://economictimes.indiatimes.com/articleshow/34497287.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed Feb, 2019).
 2. <https://www.hindustantimes.com/telangana-elections/rs-137-crore-cash-seized-during-telangana-assembly-polls-makes-it-costliest-ever/story-mtH0NbSMWIHmgcLJuKVwyJ.html> (accessed Feb, 2019).
 3. <https://www.news18.com/news/politics/rs-81-29-crore-cash-liquor-worth-8-crore-seized-ahead-of-elections-in-telangana-1948883.html> (accessed Feb, 2019).
 4. <https://theprint.in/politics/heres-what-happens-to-the-hordes-of-cash-seized-during-election-season/160189/> (accessed Feb, 2019).

money, which is not disclosed to Election Commission, because EC has predefined Expenditure Limits and violation of the same may lead to disqualification of the candidates. The law is as follows:”

The maximum expenditure by a political party in an election is governed by Rule 90 of the Conduct of Elections Rules, 1961 which provides that the total of the expenditure of which account is to be kept under Section 77 of RP Act and which is incurred or authorized in connection with an election in a State or Union Territory mentioned in Column 1 of the Table 12 below shall not exceed—

- (a) in any one parliamentary constituency of that State or Union Territory, the amount specified in the corresponding Column 2 of the said Table; and
- (b) in any one assembly constituency, if any, of that State or Union Territory, the amount specified in the corresponding Column 3 of the said Table

TABLE 12 NAME OF STATE OR UNION TERRITORY, MAXIMUM LIMIT OF ELECTION EXPENSES, IN ANY ONE PARLIAMENTARY OR ASSEMBLY CONSTITUENCY (PRIOR TO AMENDMENT IN 2014):

S. No.	States	Rs.	Rs.
	(1)	(2)	(3)
(1)	Andhra Pradesh	25,00,000	10,00,000
(2)	Arunachal Pradesh	17,00,000	6,00,000
(3)	Assam	25,00,000	10,00,000
(4)	Bihar	25,00,000	10,00,000
(5)	Goa	14,00,000	5,00,000
(6)	Gujarat	25,00,000	10,00,000
(7)	Haryana	25,00,000	10,00,000
(8)	Himachal Pradesh	25,00,000	7,00,000
(9)	Jammu and Kashmir	25,00,000	
(10)	Karnataka	25,00,000	10,00,000
(11)	Kerala	25,00,000	10,00,000
(12)	Madhya Pradesh	25,00,000	10,00,000
(13)	Maharashtra	25,00,000	10,00,000
(14)	Manipur	22,00,000	5,00,000
(15)	Meghalaya	22,00,000	5,00,000
(16)	Mizoram	20,00,000	5,00,000
(17)	Nagaland	25,00,000	5,00,000
(18)	Orissa	25,00,000	10,00,000
(19)	Punjab	25,00,000	10,00,000
(20)	Rajasthan	25,00,000	10,00,000
(21)	Sikkim	17,00,000	5,00,000

TABLE 12 (Cont)

S. No.	States	Rs.	Rs.
	(1)	(2)	(3)
(22)	Tamil Nadu	25,00,000	10,00,000
(23)	Tripura	25,00,000	5,00,000
(24)	Uttar Pradesh	25,00,000	10,00,000
(25)	West Bengal	25,00,000	10,00,000
(26)	Chhattisgarh	25,00,000	10,00,000
(27)	Uttaranchal	25,00,000	7,00,000
(28)	Jharkhand	25,00,000	10,00,000
	Union Territories	Rs.	Rs.
(1)	Andaman and Nicobar Islands	17,00,000	
(2)	Chandigarh	14,00,000	
(3)	Dadra and Nagar Haveli	10,00,000	
(4)	Daman and Diu	10,00,000	
(5)	Delhi	25,00,000	9,00,000
(6)	Lakshadweep	10,00,000	
(7)	Pondicherry	20,00,000	5,00,000

The above limits set were considered to be lower than necessary. In fact, experts were of the view that the lower limits invite under-reporting of the actual expenses incurred, leading to dishonesty in one of the very fundamental steps of the democracy of India, i.e. elections.

After the amendment done in the year 2014, the new limits set by the new rule are as follows:

“The maximum limit of election expenses in Parliamentary constituency is Rs.70,00,000/- for all the states except Arunachal Pradesh, Goa and Sikkim, for which the maximum limit is Rs.54,00,000/-. For Union Territories, the maximum limit is set at Rs.54,00,000/- except Delhi, for which the maximum limit is Rs.70,00,000/-.”

“The maximum limit of election expenses in Assembly constituency varies from Rs.20,00,000/- to Rs.28,00,000/- in states and UTs.”⁵

Section 77 of the Representation of People Act provides as to what comes under the purview of “expenditures of the party.” The expenditures by a political party include all expenditures incurred by the candidate of such party or his authorized agent in connection with the election since the date of his nomination till the date the result of election is declared. An account has to be maintained of such expenditures by the candidate himself or his authorized agent.⁶

5. <https://blog.ipleaders.in/funding-of-political-parties/> (accessed Feb, 2019)

6. Ibid.

“Isn’t it good Sanjay that Election Commission wants to save money of the political parties? Why do they still want to spend?”

“Because they want to win! Maharaj, this money and jewelry is to woo voters so that they vote for this particular party or candidate. Money also converts into other goods and offered as a gratification on return of votes. Here comes the benefit of poverty to the political parties. As long as poverty exists, it’s easier to extract votes from them. Sometimes cash, sometimes liquor, sometimes meals, sometimes clothes, sometimes TV, sometimes household items and other things, the local representative or nominated candidate knows what shape of money, the local people living at or below poverty line would reckon in exchange of their votes.”

“Hey Krishna, would you stop shocking me Sanjay! It’s worst to know that the citizens sell their votes and what about these shameless politicians who, instead of making worthy donations to the needy, giving away doles to demand votes in return. This is indeed immoral business.”

“Yes Maharaj, it is, I can think of Krishna’s words about it.”

दातव्यमिति यद्दानं दीयतेऽनुपकारिणे |
देशे काले च पात्रे च तद्दानं सात्त्विकं स्मृतम् || 20||
यत्तु प्रत्युपकारार्थं फलमुद्दिश्य वा पुनः |
दीयते च परिक्लिष्टं तद्दानं राजसं स्मृतम् || 21||
अदेशकाले यद्दानमपात्रेभ्यश्च दीयते |
असत्कृतमवज्ञातं तत्तामसमुदाहृतम् || 22||

dātavyam iti yad dānaṁ dīyate ‘nupakāriṇe
deśhe kāle cha pātre cha tad dānaṁ sāttvikam smṛitam
yat tu pratyupakārārthaṁ phalam uddiśhya vā punaḥ
dīyate cha parikliṣṭam tad dānaṁ rājasam smṛitam
adeśha-kāle yad dānam apātrebhyaśh cha dīyate
asat-kṛitam avajñātam tat tāmasam udāhṛitam

—Krishna to Arjuna- Chapter 17, Text 20,21,22, Shrimad Bhagavad Gita

Meaning:

Charity given to a worthy person simply because it is right to give, without consideration of anything in return, at the proper time and in the proper place, is stated to be in the mode of goodness.

But charity given with reluctance, with the hope of a return or in expectation of a reward, is said to be in the mode of passion.

And that charity, which is given at the wrong place and wrong time to unworthy persons, without showing respect, or with contempt, is held to be of the nature of nescience.

“And Maharaj, more than that Krishna has explained that this kind of evil charity consecutively attracts more evil. Charity in the mode of ignorance is done

without consideration of proper place, person, attitude or time. No beneficial purpose is served by it. For example, if money is offered to an alcoholic, who uses it to get inebriated, and then ends up committing a murder, the murderer will definitely be punished according to the law of karma, but the person who gave the charity will also be culpable for the offense. This is an example of charity in the mode of ignorance that is given to an undeserving person. And Maharaj, India has the law related to such illicit distribution of cash and goods to influence the votes. Distribution of cash or other items that could be used for bribe or use of muscle power for influencing electors is a crime under Section 171 of the Indian Penal Code and corrupt practices under Section 123 of the Representation of the People Act, 1951. Under Section 123(1)(A) of the RP Act, any ‘gift, offer or promise’ by a candidate or his agent or by any other person, with the object of inducing a person to vote at an election amounts to ‘bribery,’ which is a ‘corrupt practice’ under the said section. The key element in this section is that the voter must not be influenced to vote in a particular manner.”

“And Maharaj, further the Indian Supreme Court has also observed the following:”

The Hon’ble Supreme Court in *Common Cause (A Registered Society) v. Union of India*⁷ (1996) held:

“...when the elections are fought with unaccounted money the persons elected in the process can think of nothing except getting rich by amassing black money. They retain power with the help of black money and while in office collect more and more to spend the same in the next election to retain the seat of power. Unless the statutory provisions meant to bring transparency in the functioning of the democracy are strictly enforced and the election-funding is made transparent, the vicious circle cannot be broken and the corruption cannot be eliminated from the country.”

“Yes Maharaj, look at what I gathered from a news report⁸.”

- The governments of Gujarat (BJP), Rajasthan (Congress) and Odisha (BJD) have distributed free mobile phones
- The Tamil Nadu (AIADMK) and Uttar Pradesh (SP) governments distributed laptops
- The Orissa government (Biju Janata Dal) provides rice at Rs 2 per kg
- The Chhattisgarh government (BJP) provides rice at Rs 3 per kg
- The Madhya Pradesh (BJP) government provides poor families with wheat at Re. 1 per kg and rice at Rs. 2 per kg

7. *Common Cause (A Registered Society) v. Union of India*, (1996) 2 SCC 752 :JT 1996 (3) 706 : 1996 SCALE (3)258 : JT 1996 (3) 706.

8. <https://www.downtoearth.org.in/news/preelection-freebie-distribution-needs-regulation-supreme-court-41563> (accessed Feb, 2019).

- In 2006, the DMK government in Tamil Nadu promised to distribute free color televisions
- In 2011, the AIDMK in Tamil Nadu promised mixer, grinders
- In 1997, the Punjab (Akali Dal-BJP) government waived farmers' debt toward electricity and water.

“Oh! I must thank you Sanjay, now I understand the electoral consumerism.”

“Maharaj, there is more to it, there are also lucrative election promises which may not be justifiable or reasonable but are made to woo the voters, we have many such examples.”

“Really, like what?”

“Many political parties promise the loan waiver schemes to farmers, which creates a wave for them to win. In a bizarre incident of wooing voters, Delhi Chief Minister Arvind Kejriwal waived 10 months of power bill default and theft of his targeted people. This was termed as illegal, anarchic and Vivek Narayan Sharma filed a PIL in the Delhi High Court. The court had stayed such an illogical and illegal promise by the then Delhi CM.⁹ The excerpts of the PIL against the said *'Aam Aadmi Party (Political Party) subsidy to power bill non-payers'* are as follows.”

Para-4. That the impugned decision and declaration by the Respondents is to entice and encourage people against Rule of Law and Constitution of India. Therefore, the same is very bad for the nation in the long run and would encourage anarchy and destabilize the nation's welfare, growth and peace. It is further submitted that to the knowledge of the Petitioner, no other persons/bodies/institutions are likely to be affected by the orders sought in the writ petition.

...

Para-12. While the impugned acts of the Respondents are violative of Article 14 of the Constitution of India, the same are also violative of Directive Principles. The same crushes the spirit of Rule of Law and in future may bring springs, like the ones occurred in Egypt and Arab etc., in India too. The same might incapacitate the rule of law and anarchy might become the rule of law. The economy could go drowning and there would be mess all around with no rule of law.

...

Para-14. That the Respondents are enticing the public to follow no rule, and due to the impugned act of the Respondents, the estimated loss to public exchequer is equivalent to Rs.6 crore or more and the same could be much more in actual. This money is not of Respondent Nos.2 & 3, but of millions of Delhi people like the

9. <https://timesofindia.indiatimes.com/city/delhi/Delhi-high-court-stays-50-waiver-on-pending-electricity-bills/articleshow/30815074.cms> (accessed February 2019).

Petitioner, who all have paid their power bills, taxes etc. Then, why only 24000 odd people selected and why not all are being given waiver. The same is clearly irrational, politically motivated and in violation of Article 14 and Directive Principle of State Policy of the Constitution of India.

“From the stories you told I understand that poverty benefits the election game.”

“Yes Maharaj, the poverty and democracy are interlinked. It’s a topic of research among the Modern world Society Scholars. In developing nations, poverty works as an easily exploited tool to enter democratic set up and come to power.”

“Sanjay” the blind King experienced the helplessness of poor being used for votes; he pleaded earnestly, “This poverty should be removed. How many in India are poor Sanjay? Why someone is not removing poverty?”

“Maharaj, every 1 Indian out of 5 is living under poverty as per the World Bank¹⁰ as per 2012 census which makes it around 20% with some analytical improvement as against 1947 when around 44% people of the country were poor. Since independence, the population has grown from 19 crores to almost 135 crores, the numbers of people who are poor now are actually more than triple.”

“That is massive!”

“Yes, and Maharaj, as you understand, nothing matters to the human bodies with empty stomachs. These votes, candidates, elections and democracy are beyond their context. These poor may vote for meager rewards of food, money, liquor or something similar. Other than the poverty index, if the inflation (degradation of the value of currency) is high, it gets tougher for the low income group to manage their daily affairs. It’s a complex study. I would like to bring to your notice that different Governments that ruled since 1947 through various schemes did try to make some difference. Of course we do have the pure hearted, selfless Arjunas working for the upliftment of these poor here and there through their NGOs or in individual capacity. There are many Government Schemes meant for making fundamental difference in the condition of poor, some of such schemes are:

- Integrated Rural Development Programme (IRDP).
- Jawahar Rozgar Yojana/Jawahar Gram Samridhhi Yojana
- Rural Housing – Indira Awaas Yojana
- Food for Work Programme
- Sampoorna Gramin Rozgar Yojana (SGRY)

10. <http://www.worldbank.org/en/news/infographic/2016/05/27/india-s-poverty-profile> (accessed May Feb, 2019).

- Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005
- National Rural Livelihood Mission: Ajeevika (2011)
- Pradhan Mantri Kaushal Vikas Yojna
- National Heritage Development and Augmentation Yojna (HRIDAY) etc.

“However, the benefits of schemes do not fully reach out to citizens and in most occasions the middlemen and the concerned department officials forcibly share the scheme benefits. Maharaj, please notice that I am indicating at corruption creeping in every nook and corner of the system hindering the success of these useful schemes. There are also around 70,000 registered Non-Government Organizations¹¹ contributing to the upliftment of Indian civilization and helping poor, unprivileged, children and women by way of government schemes and other methods. However, a high percentage of NGOs function only to reap the political benefit in future or misutilize funds. The Delhi Chief Minister Arvind Kejriwal is one of the starkest examples of this phenomenon. And yet Maharaj, there is hope as some of them really work honestly for the common good, welfare and development of human and society.” and Sanjay bowed closing the topic.”

“Maharaja attained bewilderment after absorbing the information and stayed tight-lipped.”

11. <https://ngodarpan.gov.in/> (accessed Feb, 2019)



CHAPTER 8

EVERYONE IS SELLING SOMEONE

Believing in your own Eyes and Ears may be a Fallacy!

Both Sanjay and Dhritarashtra bowed in reverence remembering Krishna's insightful wisdom.

या निशा सर्वभूतानां तस्यां जागर्ति संयमी ।
यस्यां जाग्रति भूतानि सा निशा पश्यतो मुनेः ॥ 69॥

yāniśhāsarva-bhūtānāmtasyāmjāgartisanyamī
yasyāmjāgratibhūtānisāniśhāpashyatomuneh

—Chapter 2, Text 69, Shrimad Bhagavad Gita

Meaning:

What all beings consider as day is the night of ignorance for the wise, and what all creatures see as night is the day for the introspective sage.

Explanation

There are two classes of intelligent men. The one is intelligent in material activities for sense gratification, and the other is introspective and awake to the cultivation of self-realization. Activities of the introspective sage, or thoughtful man, are night for persons materially absorbed. Materialistic persons remain asleep in such a night due to their ignorance of self-realization. The introspective sage remains alert in the “night” of the materialistic men. The sage feels transcendental pleasure in the gradual advancement of spiritual culture, whereas the man in materialistic activities, being asleep to self-realization, dreams of varieties of sense pleasure, feeling sometimes happy and sometimes distressed in his sleeping condition. The introspective man is always indifferent to materialistic happiness and distress. He goes on with his self-realization activities undisturbed by material reaction.

“Everything is so out and open,” Maharaja fluttered his eyes, “the helpless underprivileged population undeniably succumbs to the triumphs of remorseless politicians. Their condition fuels the political upsurge of undeserving, immoral leaders. That is enough! Why do we want to talk about ignorance and



delusion of the unwise? They are vulnerable and empty stomach people who couldn't be blamed for delusions."

"Maharaj, you are missing the point! Everybody is not poor in India. There is a vast segment of sprouting middle class in India. Then we have the well-off wealthy and opulent classes. Educated, aware and connected to various mediums of Media, they are more or less intellectuals, who think, discuss and form opinions. They would never vote for petty doles. They need to be involved, motivated and made to believe in the strength, moral power, connectivity, honesty, integrity and courage of a political party or a leader. Which is a ..."

"... a Mirage, obviously," Maharaja sighed deeply. "These Kalyugi Politicians are beyond the comprehensible ingenuity of disintegrated morals."

"Yes Maharaj, welcome to the world of unrestrained duplicity, fabrication and fibs, the more the votes the merrier the politician and that is all is anyone's concern. And it's not a singular lying human machine, it's a full chain of trickster human mass collaborating to form the delusional world which penetrates into the subconscious of targeted groups. Modern world wakes up with buzzing smart phones with social media connects, they receive the printed news in the newspapers; when they get into their transport be it public or personal, the radios pour in information in their ears, the hoardings and billboards that they see on the roads carry the same advertisements, if they open televisions, it's about the same story. This tsunami of falsity built vigorously using billions of black or public money is so captivating that it engulfs the minds of nearly everyone living in that region. The human life gives in to this delusional world and begins the assumption of its actual reality."

"Sanjay, show some mercy on the blind me, I, who is even restricted in my optical vision, how would I visualize so many mediums that capture the human brain through the vision. It's indeed a matter of struggle and perseverance to stay intact from the falsities and fancy bravados. I believe that every era of the Time encloses the wise who can demarcate between real and unreal as Krishna says. Still elaborate and explain to me in detail."

"Maharaj, this is not so difficult to comprehend. Consider it similar to the poets, visual artists, drama artists hired to glorify the image of the Royals. Since there was the absence of Media during our times, the songs that they composed were sung in the Royal Courts and seldom amidst public, the eulogizing pictures that they painted adorned only the Royal walls, the dramas that they enacted to portray the tales of bravery of the Royals stayed limited to events and celebrations but imagine, imagine the power of Media, these sagas sung, these pictures painted, the skits and dramas enacted would be targeted to be seen by entire population, not just one time, many times, in various forms, visuals, audio, enactments."

"Maharaj, let me mention that during the Election Campaign of 2014, senior BJP leaders Piyush Goyal and Ajay Singh handled the overall media

strategy, and a task force was constituted to handle Modi's campaign in Varanasi. Advertising legends such as Ogilvy & Mather's Piyush Pandey, McCann Worldgroup's Prasoon Joshi and Sam Balsara of Madison World lent their skills at various levels. Advertising agency Soho Square, part of the WPP Group, handled television, radio and print campaigns with catchy slogans such as 'Ab Ki Baar Modi Sarkar.'¹ Modi was hyped as the Most Wanted Brand needed by Indians. Such campaign agents are used by other political parties too."

"Oh Sanjay, as you are opening the layers of political propaganda, I see that the expensive talented pool of professionals hired, they mean serious business. As much as a king understands these shrewd traders, money is the God they are devoted to. The ones who could sell anything to anyone, they were petty con men during our times. I discerned they could only excel in the current of Kalyuga. I perceive they would puff up even a frog and sell him as a prospective King with their fabricated tales, concocted people opinions and staged-up cultural unions. They would know how to capture that human imaginative world that drives them. As Krishna focused on training and controlling our brains to save us from delusions, these traders contrarily would make fancy attractions for the sense gratification of human beings to trap them into their version of fallacy. Tempering with the human subconscious for money, how sinful, immoral and apathetic! This is the most ignominious business industry invented by the modern civilization. And so is your democracy Sanjay, uplifted as it appears externally instead manipulates the civilization at the direction of the capitalists. Indeed Shameful."

"Maharaj, I would advise you to stay affirm. This perturbed mind of yours would block the furtherance of dissection. Allow me to serve you by being honest about what I see. Please grant me your composure." Sanjay joined his palms.

Maharaja attempted to elate his posture to encourage Sanjay to proceed with his stint.

"You have the correctness in your absorption Maharaj, the con artists have matured into a legitimate, esteemed industry of advertisers, brand management, image makeover, public relation agency, media relations; they have various guises to achieve the same task of promoting falsity, duplicity and deception. The Kalyuga has a wide economic push to this so-called creatively manipulative profession that gloats in its upswing. I must inform you that these candidates pay huge amounts of money in a 'package' deal for cooked up favorable information to create a false atmosphere for influencing electorate ². A package

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1. <https://www.businesstoday.in/magazine/case-study/case-study-strategy-tactics-behind-creation-of-brand-narendra-modi/story/206321.html> (accessed Feb, 2019).
 2. Dr. Madabhushi Sridhar, Tyranny Over The Mind: Paid News As Electoral Crime, 7 NALSAR L.R. (2013). <http://www.commonlii.org/in/journals/NALSARLawRw/2013/9.pdf> (accessed Feb, 2019)

generally comprises rate cards for coverage of specific political activities during the campaign. For example, there are different rate cards for covering campaign speeches, covering door to door campaign, showing skewed survey results etc.³ Channels and newspapers have stated that they were not willing to provide air-time to a candidate's campaign unless he is willing to pay the amount the channel demands⁴. The phenomenon of paid news not just involves the printing of news, but also rejecting or delaying coverage for the opponents⁵. The impact of this is twofold: first, as discussed above, it affects the fairness of elections by tying a candidate's prospects to his financial ability to remunerate the media for coverage. And second, it affects the public's right to know, which is an inherent aspect of their constitutional right under Article 19(1)(a) and democratic framework provided in the Constitution of India.

Maharaj, let me give you more update on the same, both print media and television have spurring profits during the Election Season, they earn through these 'package' deals sold to the candidates, let's look at some news flash.

In print, the party ran a campaign Shivachattrapati Ka Ashirwad, Chalo Chale Modi ke Sath (with the blessings of Chattrapati Shivaji Maharaj, let's go along with Prime Minister Narendra Modi).⁶

Across parties, this was a marketing and advertising intensive campaign, Balsara said. "In Maharashtra, there was unprecedented advertising pressure because all parties, BJP, Congress, NCP, Shiv Sena and Maharashtra Navnirman Sena used advertising intensively."

The BJP spent ₹25 crore on the advertisement campaigns in Haryana and Maharashtra including ₹50 lakh for the telecast of Prime Minister Narendra Modi's Madison Square garden speech which was aired on seven Marathi television channels.

BJP spent over ₹61 crore on the unique 3D-style poll campaign of its Prime Ministerial candidate Narendra Modi in the run up to the 2014 Lok Sabha election.⁷

BJP's prime ministerial candidate Narendra Modi, clad in traditional south Indian dhoti attire, shakes hands with film actor and cultural icon Rajinikanth

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3. Press Council of India, Sub-Committee Report on Paid News, at 26, <http://presscouncil.nic.in/OldWebsite/Sub-CommitteeReport.pdf> (accessed Feb, 2019)
 4. Maseeh Rahman, 'Paid News' Scandal Hits Major Newspapers, THE GUARDIAN, January 4, 2010. <http://www.theguardian.com/media/2010/jan/04/india-paid-news-scandal>
 5. Paranjay Guha Thakurta and K. Srinivas Reddy, Blurring Boundaries Between News and Advertisement, 2 NALSAR MEDIA L.R. 153 (2011). (accessed Feb, 2019)
 6. <https://www.livemint.com/Politics/r8mrxrPeaMsUR7IfLQGStgL/The-ad-agencies-behind-BJPs-successful-campaign.html> (accessed Feb, 2019).
 7. https://economictimes.indiatimes.com/news/politics-and-nation/bjp-spent-over-rs-61-crore-for-pm-modis-3d-campaign-in-lok-sabha-polls/articleshow/45969404.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cpst (accessed Feb, 2019).

during a visit to the actor's residence. Modi was campaigning for ongoing parliamentary elections in Chennai.

It also shelled out a whopping over ₹304 crore on other audio-visual media campaigns for the same electoral battle.

In India, the most visible manifestation of the phenomenon of paid news in the electoral scene is in the form of several “packages” offered by the media houses to the candidates. Packages comprise exclusive stories, front page, negative coverage for opponent etc. Several media organizations have accepted money from politicians to provide favorable coverage. The ECI's estimation of the worth of paid news market is ₹500 crore.⁸ However, the phenomenon is widespread and takes various forms of undesirable nexus of candidates and media. In 2014 Lok Sabha elections itself, around 700 cases of paid news were detected.⁹ The right to know—and, by extension, the right to accurate information on the basis of which to make an informed political choice—is severely undermined by the phenomenon of paid news and undisclosed political advertisement. In some instances, for example, newspapers have published conflicting news items on the same page showing the lack of editorial consistency or control over the news items.

“Oh Sanjay! Say no more, too much Kalyuga, as I wish I had come across the invention of this television and newspapers in exciting way of information dissemination, but alas, it appears, these mediums are now past the age of sanctimonious entertainment and fallen into being an incorrigibly polluted tool of political agenda. Say it Sanjay, how many people fall prey to this every day?”

“Maharaj, there are more than 78 crore¹⁰ people who watch TV in India and on an average an Indian watches for about 3 hours 44 minutes¹¹ of TV every day. More than 40.7 crore Indians¹² have the readership of daily newspapers.

Imagine, the power of utopia served personally to everyone, their symposium, discussion, action, motivation everything transpires into the strong wave resulting into the wave of win.”

“This is the Kaliyugi weapon, more dangerous than our *bhrahmastra*, because *bhrahmastra* takes away life and leaves corpses but Media takes away

8. <http://www.livemint.com/Politics/vELIACftlZbKXmzTzpGbFP/Election-Commission-pegs-paid-news-market-at-500-crore.html> (accessed Feb, 2019).

9. <http://www.dnaindia.com/india/report-almost-700-paid-news-cases-detected-in-2014-lok-sabha-elections-1989485> (accessed Feb, 2019).

10. <https://economictimes.indiatimes.com/industry/media/entertainment/media/tv-viewers-in-india-now-much-more-than-all-of-europes/articleshow/57438521.cms> (accessed Feb, 2019).

11. <https://economictimes.indiatimes.com/industry/media/entertainment/indians-are-watching-tv-for-3-hour-44-minutes-every-day-barc-india/articleshow/65151371.cms> (accessed Feb, 2019).

12. <https://economictimes.indiatimes.com/industry/media/entertainment/media/newspapers-add-110-mn-new-readers-in-3-years-irs-2017/articleshow/62610373.cms> (accessed Feb, 2019).

independent thinking and delivers mobilized human bodies to serve the purpose of the master. Indeed, the evil power has manifested in uncanny ways. What about the law? What about the honest, wise, pious, determined Arjuna? What about the Election Commission of India?”

“Maharaj, at times Election Commission of India and Press Council of India work like the Arjunas of Indian Democracy and other times they choose to be like you Maharaj. And this is the reason that they are not extremely impactful but definitely make snail pace progress. Here are the guidelines formulated by Press Council to the Media.”

- (i) It will be the duty of the Press to give objective reports about elections and the candidates.
- (ii) Election campaign along communal or caste lines is banned under the election rules. Hence, the Press should eschew reports which tend to promote feelings of enmity or hatred between people on the ground of religion, race, caste, community or language.
- (iii) The Press should refrain from publishing false or critical statements in regard to the personal character and conduct of any candidate.
- (iv) The Press shall not accept any kind of inducement, financial or otherwise, to project a candidate/party. It shall not accept hospitality or other facilities offered to them by or on behalf of any candidate/party.
- (v) The Press shall not accept/publish any advertisement at the cost of public exchequer regarding achievements of a party/government in power.
- (vi) The Press shall observe all the directions/orders/instructions of the Election Commission/Returning Officers or Chief Electoral Officer issued from time to time.

“Maharaj, further, the Indian Law related to Media during Election is...”

- (i) Indian Penal Code—Section 171G (False statement in connection with an election).
- (ii) Indian Penal Code—Section 153B (Imputations, assertions prejudicial to national integration).
- (iii) Indian Penal Code—Section 499 (Defamation)
- (iv) Indian Penal Code—Section 500 (Punishment for Defamation).
- (v) Indian Penal Code—Section 501 (Printing or engraving matter known to be defamatory matter).
- (vi) Also it is open to any person to lodge a complaint with the Press Council of India against a newspaper for breach of ethics. By virtue of the Press Council (Procedure for Inquiry) Regulations, 1979, complaint shall be lodged with the Council within the following periods:
 - (A) Dailies, News agencies and weeklies—within two months.
 - (B) In other cases—within four months.

“...and Maharaj, here are also some legal precedents, where the courts have taken apt note of the indiscipline of Media and passed relevant orders...”

“Some of the legal challenges posed by paid news and political advertising were manifest in the case of *Ashok Chavan v. Madhavrao Kinhalkar*¹³ (2014), where Ashok Chavan did not include the expenditure on paid news and advertisement in his election expenses. Due to the absence of a legal regime regulating these practices, the legitimacy of paid news itself was not under contention. Instead, the contention was that he did not include the expenses on paid news in his lodged account of expenditure. The Supreme Court held:

- Present petition filed against order whereby Appellant was disqualified for period of three years on account that Appellant did not file return of expenses in manner and as prescribed by or under Act.
- The present allegation against the Appellant is paid news and advertisements, which were not accounted for and which having not been disclosed by the Appellant in the return, have now come to light through the Press Council and other sources. Therefore, it could not have been within the knowledge of the District Election Officer (DEO) in order to state that it is only at the instance of the DEO that the Election Commission can hold any enquiry Under Section 10A of the Act.
- The expenditure incurred or authorized on the publication of those “paid news” was not included by the Appellant in his account of election expenses as required Under Section 77 of the Act and lodged with the DEO, Nanded under Section 78 of the Act.
- Rule 89(8) of Rules revealed that Election Commission after such enquiry, as he thinks fit, on being satisfied that no good reason or justification was shown for failure to lodge the account, can pass order of disqualification as provided under Section 10A of Representation of People Act, 1951 for period of three years.
- Election Commission was empowered to hold such enquiry as it thinks fit before passing any orders under Section 10A of Act.
- It could not be held that area of disqualification to be considered by Election Commission, under Section 10A, was fully covered in Election Petition and thereby, power and jurisdiction of Election Commission would stand excluded. Therefore, it could not be contended that once Election Petition had been rejected for want of particulars, which order had become final, complaint under Section 10A cannot be pursued.
- In order to ensure free and fair elections, power vested with Election Commission under Section 10A of Act to hold necessary enquiry to

13. *Ashok Chavan v. MadhavraoKinhalkar*, (2014) 7 SCC 99.

ascertain fact about submission of accounts of election expenses. Therefore, order of Election Commission and the Election Tribunal (High court) that election commission had got every jurisdiction to enquire into complaint made before it as regards the incorrect and untrue statement of accounts of election expenses under Section 10A of Rules was perfectly justified.

- o Impugned order of disqualification was maintainable and required no interference.

On the basis of above reasoning, the appeal of Ashok Chavan was dismissed by the Supreme Court of India.”

In *Secretary, Ministry of Information and Broadcasting, Govt. of India and Ors. v. Cricket Association of Bengal and Ors.*¹⁴ (1995), the Supreme Court held that Freedom of speech and expression includes right to acquire information and to disseminate it to public at large and is necessary for self-expression.

There is also a legal vacuum when it comes to dealing with paid political propaganda. The ECI’s attempt to tackle this issue using existing electoral finance laws, by disqualifying a BJP MLA for using “paid news,” was struck down by the Delhi High Court, which categorically stated that the EC lacks the power to regulate the content of any media in the absence of a specific law. The Election Commission of India has moved the Supreme Court to take on the menace of paid news during elections. In *Narottam Mishra v. Election Commission of India and Ors.*¹⁵ (DHC, 2018) (DHC, 2018), the Delhi High Court held:

“1. Where there was no evidence to prove that returned candidate had personally agreed to give advertisement in election special issue of newspaper then an adverse inference that elected candidate had issued and paid for advertisement could not be drawn.

2. There was an explicit denial by editors of media houses which published advertisements by receiving any payment from Appellant or his agent.

3. Scope of inquiry of EC in Section 10A of Representation of People Act, 1951 did not extend to examining any allegation of corrupt practice falling under Section 123 of Act.

4. The EC and Single Judge erred in interpreting Sections 10A, 77 and 78 read with Rules 89 and 90 of the Act.

5. There was no manner of proof that could be reasonably accepted by a tribunal established by law, to conclude that Dr. Mishra had incurred, directly or indirectly, or had authorized through his agent the incurring of direct or indirect expenditure on his behalf for the publication of the 42 offending articles/features/election appeals. The impugned order (impugned order of 16.07.2017 in CM No. 24866/2017 in LPA No. 480/2017, in which the Supreme Court stayed the EC order dated 23.06.2017 and opined that the matter involves substantial questions of law regarding the interpretation

14. *Secretary, Ministry of Information and Broadcasting, Govt. of India and Ors. v. Cricket Association of Bengal and Ors.*, (1995) 2 SCC 161.

15. *Narottam Mishra v. Election Commission of India and Ors.* (DHC), MANU/DE/1878/2018.

of various provisions of the RPA, 1951 - Sections 10A, 77, 78, 123 etc. and disposed of the Petition) of the Election Commission, and the impugned judgment of the Single Judge upholding it therefore have to be set aside and Appeal allowed.”

The ECI filed a Special Leave Petition No. 025316 of 2018 before the Supreme Court of India challenging the May 2018 Delhi High Court order that set aside disqualification of BJP's **Narottam Mishra** on the grounds of paid news. The case stands been admitted and is now converted in to Civil Appeal No. 811 of 2019 and is pending for final disposal by the Supreme Court of India.

Maharaja simpered whereas Sanjay went on with his elaboration, “Maharaj, you must also know about the propaganda called **Exit Polls**. This indoctrination is induced primarily through Television Media. Exit Poll is a full swing circus speculating on every seat of the constituencies, summing up from bottom to top, predicting the results with tangents of suspense, thrill and drama. The masses pre-induced with the utopia of their political parties, feed heavily on Exit Polls, and predispose themselves subconsciously for the Election Day. Ideally, theoretically and fairly, the Exit Polls represent the will of the People in much advance of Elections awarding splurged TRPs to the Media. But, as you have understood Maharaj, this is also another pie to be included in the package offered to Politicians to advertise them.”

Maharaja sighed deeply and shrugged it as obvious specialty.

“Please note the meagre legal hooks around it.”

“...Currently opinion polls are also barred from being published in electronic media for 48 hours prior to an election in any polling area under Section 126(1) of the Representation of People Act, 1951.

But Supreme Court of India, however, has refused to interfere barring the Exit Polls.”¹⁶

“Sanjay, trust the courts. Hope that you haven't adopted the thought process of these Kalyugi perverts that you forever question their integrity.”

“I know, Maharaj, and I do agree with you that all the journalists or media channels must not be involved in such unethical practices, but still the fact would remain that this is the norm these days. Maharaj, now let me show you what I see! I see that some of these Media Channels' owners have direct or indirect connection with the political parties. This establishes a reasonable conflict of interest about the neutrality of the material aired or published. Ideally, Media acts as a fourth leg of democracy. Media can assist curbing corruption, identifying and voicing public issues, applauding crucial efforts, highlighting Government schemes and other aspects of strengthening democracy. I have some information regarding such branched connections, let me reveal it to you.”

16. <https://www.livelaw.in/concerned-sc-dismisses-pil-banning-opinion-exit-polls/> (accessed Mar, 2019)

- Zee News, Zee Hindustan, WION, Zee Business, Zee 24 Ghanta, Zee 24 Taas, Zee 24 Kalak, Zee Bihar Jharkhand, Zee Madhya Pradesh Chhattisgarh, Zee Uttar Pradesh Uttarakhand, Zee Odisha, Zee Punjab Haryana Himachal, Zee Rajasthan, Zee Salaam, Zee Tamil are all owned by Subhash Chandra.
- Janashri TV is owned by Janardhana Reddy and Sriramulu Reddy.
- Kasturi News is owned by Anitha Kumaraswamy, wife of H.D. Kumaraswamy.
- Suvarna TV of the Asianet group is owned by Rajya Sabha MP Rajeev Chandrashekhar.
- Sakshi TV is owned by Jagan Mohan Reddy along with NTV and TV5 in Andhra Pradesh.
- Studio N is owned by N Srinivasa Rao, Father in Law of Jr. NTR; Jr. NTR is Chandrababu Naidu's nephew.
- Odisha TV is owned by Jagi Mangat Panda, wife of BJD leader Baijayant Jay Panda.
- Indiavision in Kerala is owned by Muslim League Secretary M.K. Muneer.
- In West Bengal, CPI(M) controls TV-24 Ghanta. Trinamool Congress has Kolkata TV.
- Sukhbir Singh Badal owns PTC and PTC News in Punjab along with PTC Punjabi and PTC Chak De.
- Jaya TV—Named after its owner, Jaya TV is owned by Jayalalithaa, the AIADMK chief.
- Sun TV—Even with all this political control of television in Tamil Nadu, the top honors go to DMK chief Karunanidhi's nephew Kalanithi Maran.

“Oh Sanjay, I feel exhausted to the fact that my future countrymen have nothing critical to accomplish rather than being glued to this technological dumb-box. During our times, our men kept occupied with chores of excursions, worshipping, mending corroded weapons, cultivating, illuminating the royal heritage, handling entourage, creating art and literature, constructing structures, gaining wisdom, comforting the elderly, observing festivities, training as soldiers, basking in the sun, inhaling, ingesting and slumbering. This atrocious television transformation leads them to gullibility, falling prey to the spoof of Media. It shall be shunned!”

“Maharaj, Television and Print Media are being eschewed gradually, be rest assured.” Sanjay's grin had the sarcasm that evoked curiosity in Maharaja's mind.

“Sanjay, defer no more, speak up, say it all whatever you see?” Maharaja's blind eyes twinkled and Sanjay began introducing another layer of dramaturgy.

“Maharaj, we have observed the smartest weapon of Kalyuga, the smartphones; now, I want to go on to disclose that this is a double edged weapon! The possessor of the device has to be efficient in time management, tech-savvy enough to secure his personal life from being exposed and expert in dodging the social media addiction, unless the holder dons these aspects, the smart phone can cause unlimited harm to his own persona.”

“How dangerous! I want to preserve my faith that my greatest grandest children would commit themselves for their own safety and refrain from usage of this lethal technological advancement.”

Sanjay cracked up with laughter.

“Maharaj, when Kalyugi civilization degraded its conscience to trade with commercialism, why would they have any appropriate concerns for their own selves. As per the statistics, more than 37 crore¹⁷ Indians are using smartphones in the year 2019, this is expected to be doubled by the year 2022 looking at the phenomenal growth rate. This growth rate is paradoxical, the more the smartphone awards empowerment and connectivity to its owner, the more it feeds on the precious life of the individual’s time sinking it in the addiction of social media, sparking numerous health and lifestyle issues.”

“I am baffled and shocked at this progression of smartphone evolution, the environment of life is still responsible to act in a reward/punish methodology to keep the civilization conscious of their actions. As the outcome shall turn-around in a while, elaborate to me how this social media develops the same paranoia as Print and Television Media?”

“Maharaj, this evolution has gripped the entire planet offhanded. The individual gratification awarded with one’s identity in the virtual world of World Wide Web (www) is fresh, modern and thrilling. The virtual identity introduces the empowerment of world-wide presence of impact, utility and commercialism. The people use Facebook, Twitter, YouTube, LinkedIn, Instagram, Goodreads, Pinterest, Google+, Tumblr, Snapchat, Quora and other platforms through their virtual accounts and form a web of interaction, information exchange, networking and henceforth, the shrewd politicians keenly drive the Political Agenda of cajoling voters on social media.”

“Sanjay, this virtual reality sounds magnetic even to me. After all, every soul innately craves to relive that out-bodily interconnection that it originally is accustomed for. Humans are bound to fall intensely for such an inexpensive, effortless and accessible outworldly feel of their beings. Since this medium belongs to the materialistic realm, it’s bound to contain harmful glitches.”

17. https://www.indiatimes.com/technology/news/smartphone-users-in-india-smartphone-penetration-is-set-to-reach-373-million-users-in-2019_-360475.html (accessed January 15, 2019).

“Maharaj”, Sanjay bowed his head with his palms pressed against each other, “you have grasped the gripping reality of Kalyuga in a jiffy. *Abhinandan (Greetings)!*”

“Sanjay, now go on to elaborate on how the politicians, who all must have the equal and fair access to the social media strive against each other in capturing the subconscious of the masses?”

“Maharaj, as we have already deliberated on the powerful persuasiveness of the social media, let me mention, that political parties or their leaders successfully lure lakhs or crores of individual-connects with their virtual bodies. Country witnessed its grandest ever first virtual media exploitation for election campaign during the 2014 Lok Sabha elections. Narendra Modi was the first politician to conquer the thought process of masses not only across Indian demography but also abroad. Here is the statistics announcing his roaring grip over Indian citizens,

From the beginning, Modi ran the campaign like a US presidential election and took a commanding, front-row seat in building a community and driving engagement. When December 2013 Assembly Elections were concluded, Narendra Modi already had 8 million fans on Facebook. When Lok Sabha elections of 2014 were announced Modi had already crossed 11 million fans. As the national campaign momentum picked up, Modi’s fan base increased by 28.7% crossing 14 million fans by May 12—the second most “liked” politician on Facebook after Obama. In addition, the campaign mounted other support networks and communities on Facebook like “India 272+” volunteering program, used the BJP’s party’s official page to organize a massive mobilization.

From the day elections were announced to the day polling ended, 29 million people in India conducted 227 million interactions (posts, comments, shares, and likes) regarding the elections on Facebook. In addition, 13 million people engaged in 75 million interactions regarding Modi. On each day of polling, Facebook ran an alert to people in India letting them know it was Election Day and encouraging them to share that they voted. This message was seen by over 31 million Indian voters.¹⁸

“Hence BJP was awarded with a massive victory during the 2014 Lok Sabha Elections, this pumped the undeclared leader of Opposition and Congress Party President to join the social media race. Here is the news of initiating their own set up for the same.”

The Congress started giving its digital presence much more attention last year, when it appointed former actress and parliamentarian **Divya Spandana to head its social media team, or IT cell for the future 2019 Lok Sabha elections.** This was expected to help in the run-up to the 2019 national polls. Many credit her with

18. <https://qz.com/210639/how-likes-bring-votes-narendra-modis-campaign-on-facebook/> (accessed May 17, 2014).

bringing in corporate professionals to work for the team, while earlier it was mostly filled with party workers. Now a team of about 40 employees, sitting in an office near parliament, the IT cell controls the party's social media pages on Facebook, Twitter, and Instagram. Team members also deal with research, as well as the Congress party website. According to a former employee who spoke to Quartz, the cell also sometimes writes “unofficial content” for dissemination on WhatsApp.¹⁹

“Maharaj, now let us ponder on this new sport of Twitter. It's driven on hashtags. To display one's power of popularity, a particular hash tag is made trending by its massive usage by people in their tweets. This interactive media reaches primarily through smart phones and involves everyone on a real time basis. The few examples of trending hashtags which may also be the work of creative ingenious teams of political parties are #pappu #indianpolitics #bjp #india #rahulgandhi #congress #modi #politics #indian #narendramodi #amitshah #delhi #election #rss #inc #bjpindia #bollywoodmemes #politicalmemes #indianmeme #indianews #hindi #congresswinsbig #rahulmemes #iyc #youthcongress #makeinindia#yuvacongress #bakchodiyaan#funnyjokes #dekhbhai#bcbilli #nsui#nagarpalika #andhbhakt #digitalIndia #whereismakeinindia #viralinindia #godimedia #modibhakt #indiannationalcongress #namo#dmk #primeminister #memes #elections #indianmemes #gujarat #desimemes #meme #mumbai #hindu#chappaninch #abkibaarmodisarkar #OneNationBillionIdeas and even #MeToo (used for some politicians too)”

“Maharaj! This is offbeat but I should tell you that ‘#MeToo’ was initiated to counter women harassment; for situations almost similar to what Draupadi had faced in the hands of your sons i.e., Dushaasan, Duryodhan and other Kauravas.”

“Oh, Sanjay! I do not wish to dwell in the past on your behest!”

Sanjay grinned and Maharaja changed the topic.

“Sanjay, social media appear to be interesting, stimulating and thought provoking. Inviting logical arguments and lively banter was impossible in our times, as sword would have tasted the blood of such persons at the hands of mighty and powerful. Here, at least, the involved parties are evolving their thought process.”

“Maharaj, you are right, till the time someone has to get trolled! Troll is another nasty occupation in the modern political world, this person, goes about commenting or replying in a derogatory manner, digressing and diluting the importance of the post of the person and the person himself. The flavor of the trolls are upsetting and provoking in general.”

19. <https://qz.com/india/1436914/the-chaos-inside-divya-spandan-congress-social-media-team/> (accessed Feb, 2019).

“That is okay Sanjay, at least it is out and open and in front, like a soldier. Instead of swords it’s a war of words and heart bleed is better than bloodshed any day.”

“Yes Maharaj, we have another medium, called the Messenger, most popular being Snapchat and WhatsApp, the same trolling flavored material is crafted and forwarded to the masses, which in turn gets forwarded again forming the explosion of hoax broadcast. This is the prime reason that most people are misinformed virulently because the venturer can stay anonymous and unaccountable for the validity or decency of the released artifacts until investigated thoroughly. Here are few offenders of Law who were caught playing anonymously or with their identity when someone went after them.”

TABLE 13 NAMES OF FEW OFFENDERS ALLEGED TO HAVE COMMITTED CRIMES ON SOCIAL MEDIA AGAINST POLITICAL LEADERS AND RELIGIOUS SENTIMENTS

SL.NO	Name	Activity
1.	Mohammad Shaqib	The social media forward was a photograph of a dark complexioned woman being touched inappropriately by a man, whose face had been morphed to resemble Prime Minister Narendra Modi. The text roughly read: Modi has brought back all the black money (in effect, mocking the anti-black money drive). Shaqib spent eight days in a bacha jail (juvenile home). He was booked under Section 67 (publishing or transmitting obscene material in electronic form), 67 A of the IT Act (transmission or publishing of sexually explicit material), and Section 292A (putting into circulation a grossly indecent or scurrilous picture) of the IPC (Indian Penal Code).
2.	Aleem Ahmad 16 (Meerut, UP)	On August 16, 2018 when Atal Bihari Vajpayee died, Aleem wrote a Facebook post expressing anger against Vajpayee and implicitly pointing to his role in the demolition of Babri Masjid. On August 20, Aleem surrendered and was taken to a bacha jail in Noida. In the bacha jail, he was locked in with murderers and drug addicts and Aleem ended up spending 39 days there, after his bail was rejected thrice.
3.	S. Thirumurugan 18 (Virudhunagar, Tamil Nadu)	On October 29, 2017, local BJP functionary K. Marimuthu had sent a broadcast message on Facebook to a number of his friends criticizing actor Vijay’s recent film Mersal, which had admonished the Modi government’s botched implementation of the new GST tax regime. Among the many people who received the message, Thirumurugan, who is studying a polytechnic course, responded by calling Modi names. The Facebook fight escalated. Marimuthu wanted to “teach the kid a lesson” and forwarded the screenshots to the Superintendent of Police. Marimuthu says if Thirumurugan had “apologized,” he’d have withdrawn the case, but the 19-year-old didn’t budge.

TABLE 13 (Cont)

SL.NO	Name	Activity
		On October 30, Thirumurugan was arrested from his house and booked under Section 67 of the IT Act and Section 505 (public mischief) of the IPC. He was subsequently released on bail in a few days “due to student pressure,” claims Marimuthu, but the case is still pending before a district court.
4.	Junaid Mev Khan 21 (Talen, MP)	On February 13 this year, Junaid was arrested on charges of sedition because he was part of a WhatsApp group where a “religiously inflammatory” post was shared. While Junaid was part of the group, it was someone else who had posted it, and the sender, along with others, exited the group after sending the message, leaving him as the default admin. Junaid entered the Pachaur jail, he was beaten up, and his clothes were forcibly removed. Junaid was booked under Section 124A (Sedition), Section 295 A (deliberate and malicious acts intended to outrage religious feelings), Section 153A of the IPC, and Section 67 of the IT Act.
5.	Kishorechandra Wangkhem	The 39-year-old television journalist is accused of posting an “inflammatory” social media video in November, in which he accused Modi and state chief minister Biren Singh’s government of promoting rightwing Hindu ideology in the region. ²⁰
6.	Aseem Trivedi	An Indian political cartoonist arrested for sedition in 2012 for posting a series of caricatures online that mocked the Government has said freedom of speech in his country has only worsened in the years since, although the sedition charges were scrapped by the Supreme Court in 2015. ²¹

“And here is the list of relevant Laws and case Laws.”

The Information Technology Act, 2000

Section 67 of the IT Act covers similar offenses as IPC Section 292. However, the penalties under IPC Section 292 and Section 67 are different. So suppose if any one who created or using any obscene image during election campaign to attract the common people may be held liable under this. While the jail term and fine under IPC Section 292 for first time offenders are two years and Rs. 2,000 respectively, under Section 67, it is five years and Rs 5 lakh. The jail term and fine on second conviction is three years and Rs. 5,000 under IPC Section 292, but five years and Rs 10 lakh under Section 67.

20. <https://www.voanews.com/a/indian-journalist-jailed-after-modi-facebook-post/4707087.html> (accessed December 19, 2018).

21. <https://www.scoopwhoop.com/news/freedom-of-speech-protected/#.p8bagguxh> <https://www.abc.net.au/news/2012-09-12/an-indian-cartoonist-arrested-on-sedition/4256684> (accessed March 18, 2015).

In July last year, Ajay Hatewar was booked under Section 67(A) of the IT Act for a “defamatory” comment against Maharashtra Chief Minister Devendra Fadnavis’s picture with his family on a yacht. A youth from Tamil Nadu was arrested under Section 67 on October 30, 2017, for allegedly making abusive comments about Prime Minister Narendra Modi in a private Facebook conversation.

Section 69A—Power to issue directions for blocking for public access of any information through any computer resource and Information Technology (Procedure and Safeguards for blocking for Access of Information by Public) Rules, 2009 held constitutionally valid.

Section 43A—Compensation for failure to protect data. Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected. Explanation: When any information related to election is leaked or hacked by another party or person then this section would get attracted.

In the case of *Shreya Singhal v. Union of India*²² (2015) (2015), the Supreme Court struck down Section 66-A of the Information Technology Act read with Section 79 of the Information Technology Act and the related rules, and affirmed the constitutionality of Section 69A of the Act. Justice Rohinton F. Nariman discussed the various standards which are applicable to adjudge when restrictions on speech can be deemed reasonable, under Article 19(2) of the Indian Constitution. The Court held that Section 66-A was vague and overbroad, and therefore fell foul of Article 19(1)(a), since the statute was not narrowly tailored to specific instances of speech which it sought to curb. Importantly, the Court also considered the “chilling effect” on speech caused by vague and overbroad statutory language as a rationale for striking down the provision. Further, the Court held that the “public order” restriction under Article 19(2) of the Constitution would not apply to cases of “advocacy,” but only to “incitement,” specifically incitement which has a proximate relation to public disorder. Of the challenge on the grounds under Article 14 of the Constitution of India. The Supreme Court held, “*We are unable to agree with counsel for the petitioners that there is no intelligible differentia between the medium of print, broadcast and real live speech as opposed to speech on the internet. The intelligible differentia is clear—the internet gives any individual a platform which requires very little or no payment through which to air his views.*”

The Supreme Court further read down Section 79 and Rule 3(4) of the Intermediaries Guidelines, under the Act, which deals with the liability of intermediaries, mostly those which host content and provide online services. Whereas the section itself uses the term “receiving actual knowledge,” of the illegal material as the standard at which the intermediary is liable for removing content, the Court

22. *Shreya Singhal v. Union of India*, AIR 2015 SC 1523.

held that it must be read to mean knowledge received that a Court order has been passed asking it to take down the infringing material.

Finally, the Court also upheld the secret blocking process under Section 69A of the Act, by which the Government can choose to take down content from the Internet, holding that it did not suffer from the infirmities in Section 66A or Section 79, and is a narrowly drawn provision with adequate safeguards.

“Maharaj, since this is the new territory, Election Commission of India had issued guidelines to clarify the conduct related to social media during elections.”

ECI Communication No. 491/SM/2013/Communication Dated: 25th October, 2013

Candidates are required to file affidavits in Form-26 at the time of filing of nominations. Detailed instructions and the format in which the affidavits have to be filled were issued vide the Commission’s letter No. 3/4/2012/SDR dated August 24, 2012. Para 3 of this Form requires that email ID of the candidate, if any, should be communicated to the Commission in this Form. The Commission finds it necessary that authentic social media accounts of candidates should also be informed to the Commission.

The Hon’ble Supreme Court of India had directed in *Common Cause v. Union of India*²³ (1996) that political parties should also submit a statement of expenditure of elections to the ECI and such statements are required to be submitted within 75 days of assembly elections and 90 days of Lok Sabha elections. It is obvious that expenditure on election campaign through any advertisement in social media is a part of all expenditure in connection with the elections.

For the sake of removing any ambiguity, it is hereby directed that candidates and political parties shall include all expenditure on campaigning, including expenditure on advertisements on social media, both for maintaining a correct account of expenditure and for submitting the statement of expenditure.

The Commission has a model code of conduct in place during the elections in respect of political parties and candidates that remains in force from the date the elections are announced by the Commission till the completion of elections. It is clarified that the provisions of model code of conduct and related instructions of the Commission issued from time to time shall also apply to the content being posted on the internet, including social media websites, by candidates and political parties.²⁴

Later in 2014, Election Commission of India, directed the political parties that political advertisements issued in e-papers of any newspapers shall invariably require pre-certification.

“Altogether, it appears to be a new realm, the fresh dynamics shall emerge with time, as I understand Sanjay, this would get explored going forward. However,

23. *Common Cause v. Union of India*, (1996) 2 SCC 752.

24. ECI Communication No. 491/SM/2013/Communication Dated: October 25, 2013. (accessed Feb, 2019)

it does feel great. The menace is needed to be curbed as much as it is required to be on the ground. Hopefully humanity prevails.”

“Maharaj, being your humble servant, I cannot enjoy the deliverance of my candid emotions, however, I must add, if you are asking for the Humanity to thrive, then you must learn to speak to uphold it.

And Maharaja went mum, no words could bring back the time that went by suffering inaction.



CHAPTER 9

CAPITALIZING THE INDIAN SENTIMENTS

Emotional Voters are the Gifts for the Democratic Politicians!

Both Sanjay and Maharaja were in seated meditation. They needed to harmonize and balance their energies lost in assimilating the ages apart, disparate political scenario of the Modern India. After attaining their tranquility and restoring their divine connection, they mulled over the variation of the evolved Human fabric.

“Sanjay, I am flabbergasted with the fact that the emotional quotient of the beings has degraded in the Kalyuga. It appears the masses are cowardly, ignorant, dependent, impoverished, destitute, inert, insecure, miserable, down trodden and repressed and they are ruthlessly manipulated by a chunk of cerebrally superior, power-hungry, fierce, abusive, controlling, greedy, insensitive, deceitful, vicious and commanding.

Ours were the time when the people carried devotion, submission, affection, loyalty, endurance and pride for their rightful, filial, forgiving, just, accountable, capable, proficient, righteous, merciful authoritarian. This depletion of fervor is maligning the aim of civilization to prosper and mature unto the next level of journey of mankind. Instead of uplifting their spirits and gaining dominance over their minds, humans are metamorphosing into a degraded breed. My soul feels burdened, it’s sad.”

Sanjay felt the gravity of Maharaja’s affliction. He recited Lord Krishna’s words of wisdom.

यो न हृष्यति न द्वेष्टि न शोचति न काङ्क्षति
शुभाशुभपरित्यागी भक्तितमान्यः स मे प्रियः ॥ 17॥

yo na hrīṣhyati na dveṣṭi na śhochati na kāṅkṣhati
śhubhāśhubha-parityāgī bhaktimān yaḥ sa me priyaḥ

—Chapter 12, Text 17, Shrimad Bhagavad Gita

Meaning:

Those who neither rejoice in mundane pleasures nor despair in worldly sorrows, who neither lament for any loss nor hanker for any gain, who renounce both good and evil deeds, such persons who are full of devotion are very dear to Me.



Explanation:

They neither rejoice in mundane pleasures nor despair in worldly sorrows. If we are in the dark and someone offers help by showing a lamp, we naturally rejoice. Then, if someone blows out the flame, we feel annoyed. But if we are standing under the noonday sun, we feel indifferent whether someone shows us a lamp or another blows it out. Similarly, the devotees of the Lord, being gratified with the divine love bliss of the God, rise above pleasure and despair.

Neither lament for any loss nor hanker for any gain. Such devotees neither hanker after pleasant worldly situations nor grieve in unpleasant ones.

“Maharaj, may I request you to attain the equilibrium. It is fruitless to lament to such tides of the worldly matters. Krishna suggests us to shed the exasperation and focus only on action.” Sanjay pressed his palms. “I would request your resilience to the matter we would seek to explore now. Religion is the reason for a lot of violence in Kalyuga, please be in utmost composure whilst we explore.”

“Violence for religion! could you elaborate Sanjay? It’s our Dharma, it awards us our way of life, the transcriptions of Manusmriti and Vedas, have the essence of life for us. All the duties that we have to perform are directed by our Dharma. We are guided to observe *yam*, *niyams* so that our karma can be of highest degree of humanism. Dharma is about how to exist and cope in human form and aspire for higher realms. What is this religious conflict?”

“Maharaj, religion comes into picture when we come across a sect of people following a completely different ideology related to their existential quest and deposition. The emotional life and culture of any community are shaped by the religious beliefs. Every religion is responsible for holding peace, stability, justice, equilibrium and harmony among its internal society. As seen this way, if everyone stays peaceful in their placement and religion, no two people of different religion would usually engage in violence and create disturbance. The modern complex regions cohabit people of different religions, religions in turn consist of their intramural caste, creed and economic divides, hence its overall a discreet, asymmetric, diverse complicated social fiber. An ideal, moral political scenario must be secular and practice to harmonize communal co-existence. But Maharaj ... Maharaj, let me take you to some of the news flash of modern India highlighting communal hate speeches.” (Refer to Table 14.)

“Sanjay, what is this, swearing in the name of Gita, to spread violence!

As I see, all these men hold responsible political positions, their best intent mustn’t be to implant hatred among their peasants. As I understand, the modern demographics is a cumbersome mix of smaller discreet societies. A person in power for a region, in an ideological and ethical way, is accountable to all of them, irrespective of who elected him. These speeches, whether one

TABLE 14 SOME EXAMPLES OF HATE SPEECHES AND CIRCULATION OF FALSE NEWS ON SOCIAL MEDIA

August 2012	Multi Party	<p>Circulation of threatening SMSs and MMSs in Bengaluru, Pune, Chennai and other cities with a sizeable population of persons from the North East, was one of the first incidents where the configuration involving dangerous speech, social media and public disorder became visible. Thousands of persons from the North East, many of whom were workers in the service industry and students, fled these cities fearing for their physical safety.</p> <p>The reportage by newspapers in the North East about the threats in Bengaluru further fueled panic, with many parents asking their children who were studying in cities like Bengaluru to return home. Such was the scale of panic that the Indian Railways arranged for nine special trains to Guwahati as thousands of people gathered at the Bengaluru railway station, desperate to go.</p>
August-September, 2013	Sangeet Som, BJP	<p>In Uttar Pradesh in 2013, the circulation of a video portraying the brutal lynching of two men by a mob, which is now believed to be that of a lynching in Sialkot, Pakistan, played an important role in the events leading up to the Muzaffarnagar riots in Aug-Sep 2013. More than 60 people were killed and more than 50,000 displaced in the riots. The accompanying text and audio messages falsely claimed that the video was of a group of Muslims lynching two Hindus in Kawal, where two Hindu men and a Muslim man had been killed as a result of a confrontation over an alleged incident of eve teasing.</p> <p>The Vishnu Sahai Report indicts Sangeet Som, the Bharatiya Janata Party's Member of Legislative Assembly from Sardhana in Meerut district, who has been charged under section 153A of the IPC for sharing the Kawal video on his Facebook page.¹</p>
December 2017	Praveen Togadia, VHP	<p>Praveen Togadia, Vishwa Hindu Parishad's (VHP) international working President, during his recent visit to Hyderabad in December last year, made an equally inflammatory and communal speech while addressing a press conference in the city. The VHP president at the press conference on the issue of controversial Bhagya Lakshmi Mandir, Charminar threatened Muslims by saying that "VHP will convert Hyderabad into Ayodhya if Hindus are not allowed to perform Puja."</p>

TABLE 14 (Cont)

2014	Imran Masood, Congress	Congress leader Imran Masood stirred up a controversy by threatening to “chop Narendra Modi into pieces.” Masood made the speech during the run-up to the 2014 Lok Sabha elections. “If Modi tries to turn Uttar Pradesh into Gujarat, then we will chop him into tiny pieces ... I am not scared of getting killed or attacking someone. I will fight against Modi. He thinks UP is Gujarat. Only 4% Muslims are there in Gujarat while there are 42% Muslims in UP,” he said.
April 2014	Azam Khan, SP	SP leader Azam Khan said India won the Kargil war because of Muslim soldiers and no Hindu soldier was behind the victory. The remarks were made during a rally in Ghaziabad.
2009	Varun Gandhi, BJP	BJP leader Varun Gandhi was booked for an alleged hate speech he made in Pilibhit in the run-up to the 2009 general elections. The BJP leader was alleged to have said at a party rally on March 6, 2009, “If anyone raises a finger towards Hindus or if someone thinks that Hindus are weak and leaderless, if someone thinks that these leaders lick our boots for votes, if anyone raises a finger towards Hindus, then I swear by the Gita that I will cut that hand.”

¹ <https://www.hindustantimes.com/india/speeches-video-by-sangeet-som-rana-fuelled-riots-probe-panel/story-4ZCkHCR8QdTA13Hnf1159H.html> (accessed February 2019).

belongs to the region directly or through political parties are uncalled for, morally degraded and against the filial duty of the fatherly king. What kind of ruler would infuse discord among his own children! I feel aghast to this situation.”

“Maharaj”, Sanjay smiled mysteriously, “just look beyond these hate speeches, understand the minds of the Kalyugi politician; for them, irrespective of the way they venerate religion personally, for politics, Religion is a Tool. The perennial use of Religion in the modern ages is to acquire and retain the position of power. This is the most unfortunate trampling of the most pious, ingrained, core and existential emotion of the mankind. The selfish goals lead to the utilization or overutilization of Religious Sentiments to invoke hatred, destruction, insecurity, hopelessness, anger and fear among the people. The provoked crowd may even turn mad with the rage, at times get un-controlled with the induced insecurity of existential crises and perform vandalism, rioting, lynching and other heinous acts on the other sects.”

“Sanjay! Such antagonism, belligerence and bitterness! What is the need for the politician to play with its peasants’ emotions? Does it really happen?”

“Maharaj, it happens so much in Kalyuga and the kind of disaster it brings is ludicrous! This era of the world that we see is struggling with politico-religion

conflicts. All I want to infer is that the displacement drive of few religious groups is so aggravated that it even hampers the other lucidly peaceful religions. Maharaj, if you could stay poised, I would like to bring to your notice a few incidents of this timeline and let me restrict myself to the region of India, for the sake of our focus. However, I must mention that this current of religious violence is all inter connected throughout the world.”

“Go on. Tell me Sanjay, what do you see?”

“Maharaj, first incidents of religious commotion began in medieval India during early 7th century when Hinduism branched out into Buddhism and Jainism. The temples and pagodas were looted, the religious houses were plundered and devotees were murdered. It was all driven by kings to conquer territories and establishing themselves provoking the religious supremacy of their people. Then came Mughals and the phenomena of forging supremacy of one religion over the other went on, only the names of the religions and kings kept changing but the wars and outcomes were similar, establishment of one sect’s religious sovereignty over the other. In the 20th century, when British had to decolonize India, they utilized the diverse religious spectrum of India to crack down on its own. They exposed the people of India to Religion-based partition. India and Pakistan, these two pieces were to be formed of the one intermingled peaceful society of Hindus and Muslims. This millenniums’ old deeply interwoven fabric was torn down so brutally and hastily, that it caused humongous unending melancholy. This wasn’t even a war, Maharaj. and...”

“...and Sanjay?”

“Maharaj,” Sanjay’s voice trembled and he ushered Dhritarashtra to the genocide religious insecurities can instigate, “... and I see, lakes of blood and tears, the track of railway trains littered with mutilated bodies, dead children in the lap of their mothers, partially cremated human parts, living dead walking toward uncertainty, hopeless eyes, wreckage everywhere...”

“You mean, they really were exchanging places, the people, who all, how many?”

“Maharaj, more than 1.5 crore people were compelled to abandon their family houses, their lands, properties, their identities. They huddled toward their declared legitimate land with their meager belongings. The others who wanted to stay, were murdered by their very own friends and neighbors gripped in religious frenzy. This wasn’t even the wrongdoing of our countrymen Maharaj, this was the evil design of British and as an outcome both religious sects inflicted such unimaginable farce barbarism on each other that this not only created time bound anarchy but also rooted deep resentment and loathing between these two religions, the same has been traversed into the future generations of both the separated countries. Most citizens, even of 21st century, still cannot act free of the 1947 partition carnage. Even though, the major civilization of the world has

matured to understand the peaceful coexistence. These two countries, India and Pakistan, constantly struggle with the military tension at their boundary lines.”

“Oh Sanjay! And I reckon you would soon reveal the political exploitation of the same.”

“Maharaj,” Sanjay knew Maharaja Dhritarashtra’s involvement was keen and absolute. “The haunting partition ghost is exploited as Nationalism by Politicians. A slightest touch of India versus Pakistan conflict invokes the deep stimulus of Nationalism even if it’s for an innocuous Cricket Match; then imagine, what happens during war times. Both countries have witnessed wars thereof during 1947 itself, followed by years 1965, 1971 and 1999. If a political party can assure the citizens to attain upper hand on handling the matters of Pakistan, it can ensure a perfect favorable impetus for the people to elect them.

This happened during 1999, when the political party, BJP (NDA) failed the no confidence motion on April 17, 1999 and the parliament was dissolved by the then President K. R. Narayanan. The caretaker Prime Minister Mr. Atal Bihari Vajpayee was faced with the incursion of Pakistani soldiers disguised as Kashmiri militants into Kargil sector of Kashmir and had to go on a war with the name “Operation-Vijay” to re-acquire the area. Pakistan eventually had to pull out under international pressure and the Operation was declared as successful in India. As per available figures, India had lost 527 brave hearts with 1,363 wounded. Kargil war was followed by victory of BJP (NDA) in the subsequent parliamentary elections held in September, 1999.

It is seen that although there is usually stress at the borders with casualties of our brave soldiers, but the events primarily gain momentum on Media and social media when the elections are close and the ruling party is interested to act in dramatic way to appease the citizens who inherit the torment of their ancestral victimization.”

“Do you have more justification Sanjay? You must.”

“Yes Maharaj, let me take you through very recent events to clarify the connection of War with Elections. India is going to face General Election in April-May, 2019 with voters’ base of around 90 crore Indians, out of which 1.6 crore are newly enrolled voters having age between 18 and 19 years and in all around 8.1 crore voters would vote in the forthcoming Parliamentary Elections for the very first time only.”

“India witnessed a sea-change in the election issues with the wave of Nationalism. The axis of issues that existed prior to Pulwama Attack on February 14, 2019 shifted completely to a fresh angle post Air Surgical Strike carried by India destroying Terrorists Training Camps situated in Balakot, Pakistan occupied Kashmir on February 26, 2019.”

“On February 14, a convoy of vehicles carrying CRPF personnel on the Jammu Srinagar National Highway was attacked by a vehicle-borne suicide bomber in the Pulwama district of J&K, which resulted in deaths of 46 CRPF personnel. In retaliation to these killings and also to derail future attack, on February 26 at around 3:30 am, Indian Air Force (IAF) conducted airstrikes at Balakot, deep within Pakistan. The strikes were ‘non-military’ and pre-emptive in nature; targeting a Jaish-e-Mohammed (JeM) facility within Pakistan killing around 300 terrorists present in the training camps, as claimed.”

“Maharaj, next day Pakistan tried to carry air-strike in Indian Territory; however, sharp and courageous personnel of Indian Air Force defused this attack of Pakistan and also destroyed one of Pakistan’s super fighter jet i.e., F-16 Aircraft. While an Indian MIG-21 was downed, the pilot Wing Commander Abhinandan got captured by Pakistan. However, Prime Minister Modi’s diplomatic preparation and tactical pressure on Pakistan yielded the captured pilot back to India within two days of capture.”

“Now, Maharaj, I will tell you that pre-Pulwama, Balakot and capture and return of Indian Pilot, the election issues were unemployment, loss of millions of jobs, corruption in Rafale deal, failure of demonetization, poor implementation of GST, price-hike, GDP loss, Farmers’ social security and loan waivers, bank frauds, lynching, reservation for economically weaker sections of upper castes etc. However, post-Balakot air strike, all the election issues have evaporated from the scene and only India-Pakistan is being talked about.”

“Maharaj, such is the prospect of war with Pakistan that even the possibility of this aim benefits the incumbent Government forgoing all relevant and day to day issues of people. Going in the past, I must tell you that in retaliation to Pathankot and Uri terrorist attacks in 2016, India carried surgical strikes by entering the Pakistan territory on September 29, 2016 and killed around 50 terrorists in Pakistan. This turned into the wave of Nationalism and benefitted BJP in the Uttar Pradesh Assembly Elections thereby BJP formed Government with clear majority thereafter.”

“Sanjay!” Maharaj’s highpitched voice projected that he was appalled. “What are you saying Sanjay? Hold my hand, I suddenly feel helpless.” Maharaja Dhritarashtra fluttered his blind eyes in anxiety, he rose to his feet and walked forward, Sanjay held his hand, Maharaja acquired slight composure.

“Kindly be seated on your throne, Maharaj” Sanjay pleaded.

Maharaja paused, he had to let go of his internal turmoil on priority “Sanjay!” he spoke firmly, “Doom this democracy and its elections! The outcome of the elections is nothing but the herd of narcissistic, egomaniacal and churlish tyrants. Nationalism, patriotism, sovereignty, guardianship, apprenticeship and progenitorship are all mere charades of the Ruler to retain and attract public approval. Such a plethora of chicanery! Why the people do not know the real

phenomena of affairs? Sanjay, you established to me that Democracy saves the Bloodbath for the throne; no man should die as a soldier fighting for his leader's ambition for the throne. What a dichotomy!

Not a single ballot should be cast to such opportunists playing at the cost of Martyrdom. My heart mourns at the wastage of their precious lives and withers for their widows, children and elderly. Why cannot the citizens overcome their historical resentment and apply their free will? Only if they desist inflating their powerful Votes in favor of such charlatans, these soldiers wouldn't be baited. Why don't they comprehend?"

Sanjay guided Maharaja to be seated and recited Lord Krishna's *shloka* from the Bhagavad Gita:

स्वभावजेन कौन्तेय निबद्धः स्वेन कर्मणा ।
कर्तुं नेच्छसि यन्मोहात्करिष्यस्यवशोऽपि तत् ॥ 60॥

ईश्वरः सर्वभूतानां हृद्देशेऽर्जुन तिष्ठति ।
भ्रामयन्सर्वभूतान यन्त्रारूढानि मायया ॥ 61॥

swbhāva-jena kaunteya nibaddhaḥ svena karmaṇā
kartuṃ nechchhasi yan mohāt kariṣhyasy avaśho 'pi tat

Iśhvaraḥ sarva-bhūtānām hṛid-deśhe 'rjuna tiṣṭhati
bhrāmayan sarva-bhūtāni yantrārūḍhāni māyayā

—Chapter 18, Text 60–61, Shrimad Bhagavad Gita

Meaning:

O Arjuna, that action which out of delusion you do not wish to do, you will be driven to do it by your own inclination, born of your own material nature. The Supreme Lord dwells in the hearts of all living beings, O Arjuna. According to their karmas, he directs the wanderings of the souls, who are seated on a machine made of the material energy.

Explanation:

We assume that we are independent human beings and acting based on our own free-will. This notion of free-will is an illusion for, in reality, the will that drives our action is itself a product of our past, our heredity and our environment. The choices we make at any given moment are not really random since they are being made by our fixed personality which is itself the product of Karma. That which drives our personality are the three modes of Nature (sattwa or illumination, rajas or kinetism, tamas or inertia).

Maharaja understood what Sanjay had to infer.

“Maharaj, just grasp Krishna's words again. Any human being cannot alienate from their deep rooted nature and circumstances. It takes a lot of courage, will power, determination and Krishna's wisdom to attain the true,

absolute, free will. Not all our countrymen are sages, enlightened or scholarly literates. They are commoners, at the middle or bottom of the food pyramid, struggling for their day to day chores. And Maharaj, notably, we do have Arjunas scattered all over the country, they understand their responsibility, they act, sometimes all alone. We must have faith in their abilities, conscience and their connection with Krishna. Hence Maharaj, ask me no more, why the countrymen must be influenced to vote for pseudo Nationalism, Religion, Sympathy, Glamour or what not! They would and they must be right in voting as per their free will. Maharaj, sometimes the leaders have to act according to the prevalent situation too. So all wars or battles are not fought to achieve political gains, but political gains are surely a result and outcome of wars in this region.”

“Sanjay, this civilization is unfathomable! Our times had kings and citizens, clearly distinctive and unambiguous. The masses of modern world encapsulate the contemporary, potential and previous rulers, democrats, bureaucrats along with all categories of commoners in one envelope. The circumstances of democratic era are in sheer dichotomy whereas one side of the coin projects the light of fairness, equity and equality of impelling the rightful, suitable, justified contender on the seat of sovereignty, the flip side is shady, despicable and reprehensible and encourage the ambitious charlatans to galvanize the votes by preying upon the easily invoked emotions of the masses.

The Arjunas who must be rightfully in the position of Power, failingly lie low, stay disunited and unfortunately incapable to channelize their strengths and support to move up the political staircase. Ironically, usually they lack political inclination and either commanded by their subconscious and serve to uplift in their local capacity or ignoring their subconscious, they escape the local demography to achieve individually gratified lives. Time must act if all fail. Now, I am all ears to grasp their other uncanny methods of consuming human emotions for democracy and their judicial breakaways. Is there more than pseudo nationalism and hate speeches? Tell me what do you see, dearest Sanjay.”

“Maharaj,” Sanjay bowed his head, “my spirit is elated to witness when your son Duryodhana is out of equation, your inclinations tilt heavily toward Arjunas. Alas! If you had exercised this wisdom on your watch, discarding your ingrained biased and blind fatherly love, we could have saved the lives of 18 *akṣauhiṇī* (90 lakh) warriors sacrificed for your whims and unscrupulous ambition. When all of us couldn't make you even speak, forget about action, how do you now wish the formless Time to act Just? It is the current of Kalyuga, that supports what it can, if Arjunas need to come forward, they may, they would have to learn to collaborate and follow the wisdom of Krishna in their hearts to sail against the evil current. I suggest, we must trust the flow of Natural conspiracies, if this civilization has to save itself, it would develop its collective conscious and take substantial actions or else, just like the civilization of our

era, mum and trapped, would end up perishing in mass destructions. Let us hold our judgments to ourselves.”

Maharaja’s face tilted downwards expressionless. His internal dilemma stayed unknown and unspoken as ever. Sanjay went on with his ruthless honesty about the modern world.

“Maharaj, I would like to highlight that some shrewd politicians keep the axis of politics on Religion, when religion becomes the pivot point, any other progressive political issue that should actually tilt votes serving the purpose of democracy such as employment, poverty, illiteracy, women security and others is pushed down being of secondary or tertiary consideration. Those who are expert in twirling the voters’ impetus on religion, may discard the painstaking actual growth purposes as the motto for winning votes. Now let me elaborate on their methods of consuming the religious impulses of people.

One motive which is sorted and obvious is the polarization of votes based on Religion. In the history of India, since Independence, the long standing party India National Congress, kept the Minority of Muslims appeased to vote unanimously for them, during those days Hindus remained free from polarization. Over the period of time, the Bharatiya Janata Party (BJP), could twist the religion axis from Minority to Majority of Hindus. They had to stir the emotions of Hindutva to such an extent, that the Hindus were made to believe that BJP was the only party of their religious flavor, they gathered to vote for BJP and hence, the religion-based strategy of Congress got defeated in front of BJP’s.”

“Sanjay, I do comprehend how such religious tangents are established, but how could they shift such tangents from Minority to Majority?”

“Maharaj, as Congress was busy appeasing Muslims since a long time, with the support of Articles 29 and 30 of the Constitution of India and through various other methods, BJP began polarization of Hindus by supporting the century old issue of Ayodhya Ram Mandir. This was about the disputed Ram-janambhumi (birth-land) on which a Mosque Babri Masjid was erected. In September 1990, BJP stepped ahead and initiated a Rath Yatra led by then BJP Leader L.K Advani targeting the unlawful seizure of the land by annihilating the structure of Mosque. This rath yatra rally stirred the religious sentiments of both Hindus and Muslims and triggered religious violence in cities across North India. The ruling Government of Bihar arrested Advani as the yatra passed through that state. The 150,000 supporters, from the general public who joined as ‘kar-sevaks’, were also arrested by the government of Uttar Pradesh. Despite the arrests, tens of thousands of ‘kar sevaks’ reached Ayodhya and demolished a small structure of mosque on December 6, 1992. This resulted in the situation of lawlessness and encounter with security forces with 20 deaths. These events caused further Hindu-Muslim riots to break out across the country, in which hundreds were killed. On March 12, 1993, twelve (12) bomb blasts took place in Mumbai (then Bombay) killing several hundred

and injuring around a thousand people at the behest of Dawood Ibrahim, in retaliation of Babri Masjid demolition. In a nutshell people from both religions were killed in these riots.

This was only the beginning. The demolition of Babri Masjid created a deep divide in India and the political parties' policies of appeasement started taking new shape. Now instead of one, two central parties were engaged in appeasing two different religious groups of voters. In the long run, this was destined to provide benefit to BJP as it was representing Majority group in India. The initial political gains provided further momentum to BJP, which thought is fit to keep the 'Babri Masjid-Ram Janambhumi' issue alive.

During the following years, the religious peace of not only State of Uttar Pradesh remained disturbed, but the issue went on to an elaborated Godhra train burning incident during the morning of February 27, 2002. Around 59 'kar-sevaks' returning from the city of Ayodhya after a religious ceremony at the disputed Babri Masjid site were killed by an adverse religious group of Muslim Community, who set fire inside the Sabarmati Express train near the Godhra railway station of Gujarat. Narendra Modi, who was the then Chief Minister of Gujarat and also the General Secretary of the BJP, was in the exact position of twirling the religious game.

Riots broke out in Gujarat, and the three-day period in Gujarat witnessed the worst tragedy of inter-communal violence since partition. The riots ended with over one thousand dead and around two thousand five hundred injured. Many brutal killings and rapes were reported as well as widespread looting and vandalism. Narendra Modi was accused of instigating and condoning the violence and it was also alleged that under him the police and government officials also allegedly directed the rioters and gave lists of Muslim-owned properties to them.

Since then many investigations were opened to implicate Narendra Modi and kept on appearing in the news as a culprit of Godhra violence probably on the behest of the Opposition. This strategy of the opposition to malign the image of the Leader of BJP backfired and continuously kept appeasing Majority of Hindus projecting him as their savior.

In 2012, Modi was cleared of complicity in the violence by Special Investigation Team (SIT) appointed by the Supreme Court of India and subsequently in 2014, the Supreme Court expressed satisfaction over the SIT's investigations and gave clean chit to Modi. Meanwhile in 2013, in the city of Muzaffarnagar belonging to the religiously sensitive state Uttar Pradesh, a small eve teasing incident took the turn of involving two communities, coincidentally, Jat-Hindus and Muslims. The BJP party took interest in handling the matter through Sanjeev Balyan, whereas Samajwaadi party's MLA stopped the police even from filing the FIR against the culprits of Minority Community. The resentment of the grieved party aggravated and exploded into murdering

the culprit, this was followed by alleged lynching of the brothers of the girl by Minority community. The events unfolded into the break out of riots, causing 62 reported deaths and around one hundred injured. Approximately 50,000 people were displaced taking shelter at ten state-run relief camps. To control the situation curfew was imposed in the violence-hit areas. Around 10,000 to 12,000 preventive arrests were made. The intensity of the communal tension was so high that around 10,000 Provincial Armed Constabulary (PAC) personnel, 1,300 Central Reserve Police Force (CRPF) troopers and 1,200 Rapid Action Force (RAF) personnel were deployed to control the situation.

In the subsequent May 2014 elections, the Bharatiya Janata Party won the Parliamentary elections in Muzaffarnagar district. The impact of Muzaffarnagar riot was such that out of 80 parliamentary seats in Uttar Pradesh, BJP alone won 71 seats with additional 2 seats going to its allies. Not even a single seat of 80 seats went to a Muslim candidate in Uttar Pradesh. Not only this, for the 2nd time in independent India's history, a party other than Congress, attained full majority in Indian General Elections.

Maharaj, this would prove be the historical change in axis of Indian Politics, as since 1947 till 2009 general election, the axis remained Minority-oriented in the General Elections, which had turned into Majority-oriented since 2014. Winning BJP MP Sanjeev Balyan who was accused of inciting communal violence was awarded with Union Ministerial berth in the Narendra Modi government.”

“Extremely interesting and sinful revelation, Sanjay, go on, I may stay undeterred to understand the other motives of stirring the religious sentiments.”

“Maharaj, there is another benefit, the religious houses flourishing as a by-product of religious fashion, also become the political hubs to gather vote power and networking. The religious houses and politicians may also be allies and grow together. These religious leaders endorse political parties and their followers would also be devoted to whoever their Guru would endorse, the powerful politician may reciprocate with considerate policies and other favorable requisites. The Maulvis of Muslim communities also are seen issuing ‘fatwas’ in favor or against of candidates contesting elections since the time India got independence. If Sri Sri Ravishankar, the world-renowned religious leader, supports Narendra Modi then his followers would by default support Modi. These mutts, ashrams, deras, madarsas are also the political hubs to gather power. Both religion and politics are hand and glove game to subdue commoners and gain upper hand. Let me mention some Godmen turning into readymade politicians to prove my point. Maharaj, here is the list.”

Saint Turned Leaders

Yogi Adityanath, the incumbent Chief Minister of Uttar Pradesh, was the Mahant or head priest of the Gorakhnath Mutt, a Hindu temple in Gorakhpur,

following the death of his spiritual “father,” Mahant Avaidyanath in September 2014. He is also the founder of the Hindu Yuva Vahini, a social, cultural and nationalist group of youth who seek to provide rightist Hindu platform.¹

Sakshi Maharaj, is now into his fourth term as a Lok Sabha MP. He was first elected from Mathura in UP in 1991 and then twice from Farrukhabad. Arguably the second most prominent OBC leader from the Lodh community, he left BJP in 1999 but returned to the party fold later. The swami holds the title of Acharya Mahamandaleshwar of Nirmal Panchayati Akhada.²

Niranjan Jyoti (commonly known as Sadhvi Niranjan Jyoti), is a leader in BJP party. She was appointed the Minister of State for Food Processing Industries in November 2014. She represents the Fatehpur constituency, Uttar Pradesh, in the Lok Sabha, after winning in the 2014 general election. Prior to that, she represented Hamirpur constituency in the Uttar Pradesh Legislative Assembly after winning in the 2012 assembly election.³

Swami Agnivesh, is an Indian politician who was also a member of legislative assembly in the state of Haryana. A scholar of Arya Samaj, the swami came into prominence due to his contribution against bonded labor in 1980s. He also served at the UN and finally named the president of World council of Arya Samaj, the highest body of the movement.⁴

Uma Bharti, turned Sadhvi after joining politics. Raised by Vijaya Raje Scindia of Gwalior, she became involved with the BJP at a very young age, unsuccessfully contesting her first Parliamentary elections in 1984. In 1989, she successfully contested the Khajuraho seat, and retained it in elections conducted in 1991, 1996 and 1998. In 1999, she switched constituencies and won the Bhopal. She has also been the Chief Minister of MP.⁵

Badruddin Ajmal is a Member of Parliament from Assam. He established the AIUDF (All India United Democratic Front). He has a degree in Islamic theology from Darul Uloom Deoband. Moulana Ajmal is now a member of the advisory board of Darul Uloom, the prominent and influential Islamic seminary.⁶

“Sanjay! When even the pious Godmen cannot resist the intoxication of political power, this Kalyuga and its civilization, need only a divine intervention to be rescued from the consequence of this nefarious system.”

“Maharaj, if they want to be saved, they would act to be saved. From our time and era, let us analyze, understand and pray for their situations and

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1. <http://mythicalindia.com/features-page/top-religious-leaders-who-forayed-into-politics-and-the-controversies-that-ensued/>
 2. Ibid.
 3. Ibid.
 4. Ibid.
 5. Ibid.
 6. Ibid.

circumstances. I want to use this opportunity to elaborate on another very subtle use of religious polarization. If the community dynamics is tilted heavily toward the religion of the ruler's choice, then the ruler attains extreme freedom to act on his whims and fancies of religious bigotries. He might be able to de facto generate momentum for whatever he had been trying to achieve in the name of religion. I would like to give an example of changing the names of few cities in U.P., Haryana and Chhattisgarh to the religious flavor by the BJP Government holding full majority in State and in Centre.”

New Name of the Place in the flavor of Hinduism	Old Name
Gurugram	from Gurgaon in 2016
Prayagraj	from Allahabad, renamed in 2018
Atal Nagar	from New Raipur in 2018
Ayodhya	from Faizabad in 2018

“Sanjay! I would like you to stop acting like a deviant. If the ruler has induced the people into believing what he believes, give rest to your judgments and allow me to hail democracy, at least once.”

“Maharaj, do not let your religious prejudice cloud your reasonableness and perception. All I wanted to infer that these things aren't possible unless you have an undoubting support to your paradigm. Now Maharaj, let me tell you with full trust that the Indian legal provisions totally prohibit the use of religion, caste and creed to entice votes. Here are some details.”

“Maharaj, Supreme Court of India has observed ...”

In *Abhiram Singh v. C.D. Commachen*⁷ (2017), a Seven Judge Bench of Supreme Court of India considered whether seeking Votes in the name of Religion would amount to be Corrupt Practice under Representation of People Act, 1951. The said case arose out of *Abhiram Singh v. C.D. Commachen*⁸ (2014) – 5 Judge, which arose out of *Abhiram Singh v. C.D. Commachen*⁹ (1996) – 3 Judge.

Deciding the understanding and purview of “corrupt practice” under Section 123 (3) of the Representation of the People Act, 1951, that prohibits any candidate, his agent, or any person consented by such candidate or his agent, from soliciting votes, or discouraging voters against voting for a rival candidate, on grounds of religion, race, caste, community or language, the Constitution Bench of Supreme Court with 4:3 declared such conduct as “corrupt practice” under Section 123 (3) of the Representation of the People Act, 1951.

7. *Abhiram Singh v. C.D. Commachen*, (2017) 2 SCC 629.

8. *Abhiram Singh v. C.D. Commachen*, (2014) 14 SCC 382 – 5 Judge.

9. *Abhiram Singh v. C.D. Commachen*, (1996) 3 SCC 665 – 3 Judge.

The conclusion arrived by Majority (4 Judges) in the Judgment was authored in 3 separate judgments, which are quoted as under:

“The provisions of sub-section (3) of Section 123 of the Representation of the People Act, 1951 are required to be read and appreciated in the context of simultaneous and contemporaneous amendments inserting sub-section (3A) in Section 123 of the Act and inserting Section 153A in the Indian Penal Code.

So read together, and for maintaining the purity of the electoral process and not vitiating it, sub-section (3) of Section 123 of the Representation of the People Act, 1951 must be given a broad and purposive interpretation thereby bringing within the sweep of a corrupt practice any appeal made to an elector by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate on the ground of the religion, race, caste, community or language of (i) any candidate or (ii) his agent or (iii) any other person making the appeal with the consent of the candidate or (iv) the elector.

(MADAN B. LOKUR, J.)

(L. NAGESWARA RAO, J.)

Applying the above principles, there is no doubt that Parliament intended an appeal for votes on the ground of religion is not permissible whether the appeal is made on the ground of the religion of the candidate etc. or of the voter. Accordingly, the words “his religion” must be construed as referring to all the categories of persons preceding these words.

(S.A. BOBDE, J.)

An appeal in the name of religion, race, caste, community or language is impermissible under the Representation of the People Act, 1951 and would constitute a corrupt practice sufficient to annul the election in which such an appeal was made regardless whether the appeal was in the name of the candidate’s religion or the religion of the election agent or that of the opponent or that of the voter’s. The sum total of Section 123 (3) even after amendment is that an appeal in the name of religion, race, caste, community or language is forbidden even when the appeal may not be in the name of the religion, race, caste, community or language of the candidate for whom it has been made. So interpreted religion, race, caste, community or language would not be allowed to play any role in the electoral process and should an appeal be made on any of those considerations, the same would constitute a corrupt practice. With these few lines I answer the reference in terms of the order proposed by Lokur, J.

(T.S. THAKUR, CJI.)”

For Minority Bench (3 Judges), Justice Dr. D.Y. Chandrachud wrote the judgment and concluded as under:

“The interpretation which has earlier been placed on Section 123(3) is correct and certainly does not suffer from manifest error. Nor has it been productive

of public mischief. No form of government is perfect. The actual unfolding of democracy and the working of a democratic constitution may suffer from imperfections. But these imperfections cannot be attended to by an exercise of judicial redrafting of a legislative provision. Hence, we hold that there is no necessity for this Court to take a view at variance with what has been laid down. The 'his' in Section 123(3) does not refer to the religion, race, caste, community or language of the voter. 'His' is to be read as referring to the religion, race, caste, community or language of the candidate in whose favour a vote is sought or that of another candidate against whom there is an appeal to refrain from voting.

(ADARSH KUMAR GOEL, J.)

(UDAY UMESH LALIT, J.)

(DR D Y CHANDRACHUD, J.)

New Delhi

January 02, 2017”

Some of the relevant Penal provisions regarding the religious sentiments being misused: -

Section 153A IPC: Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

Section 295 IPC: Destruction, damage, or defilement of a place of worship or an object held sacred, with intent to insult the religion of a class of persons.

Section 295A IPC: Deliberate and malicious acts intended to outrage religious feelings.

Section 298 IPC: Penalizes “uttering, words, etc., with deliberate intent to wound the religious feelings of any person.”

Section 505(1) and (2) IPC: Penalizes publication or circulation of any statement, rumor or report causing public mischief and enmity, hatred or ill-will between classes.

Section 8 RPA: Disqualifies a person from contesting election if he is convicted for indulging in acts amounting to illegitimate use of freedom of speech and expression.

Section 123(3) RPA and Section 125 RPA: Prohibits promotion of enmity on grounds of religion, race, caste, community or language in connection with election as a corrupt electoral practice and prohibits it.

“But Maharaj, Secularism, which is the basic feature of Indian Constitution, gets violated innumerable times. The Constitution of India was drafted magnanimously approving all religions and faiths of India, very equally and fairly. The Legal provisions are also very strong. I would take you to the summary of the few violations by the members of the political parties. The candidates were charged with cases of hate speeches and other relevant sections of IPC.”

Summary and Highlights for the Parliament of 2014 Elects¹⁰

A total of 51 Current MPs and MLAs have declared cases related to communal violence against themselves. The breakup of the same is given below:

Sitting MPs with Charges related to Communal Violence: 19 Sitting MPs have declared Charges related to Communal Violence. Of these, 16 are Lok Sabha members and 3 are Members of the Rajya Sabha.

Party wise distribution of MPs with Charges related to Communal Violence: 14 Sitting MPs with Charges related to Communal Violence are from the BJP, and 1 each is from the PMK, TDP, TRS, AIMIM and the AIUFD.

Sitting MLAs with Charges related to Communal Violence: 32 of our current MLAs have declared Charges related to Communal Violence.

State wise distribution of MLAs with Charges related to Communal Violence: 10 sitting MLAs with Charges related to Communal Violence are from Telangana, 4 MLAs are from Bihar, 5 MLAs are from Uttar Pradesh, 3 each from Maharashtra and Karnataka, 2 from Tamil Nadu and 1 MLA each from Punjab, Madhya Pradesh, Rajasthan and Jharkhand.

“Here is also another detailed information Maharaj, it throws light on the sordid reality of unenthusiastic handling of hate speech cases by the Indian Police. The complaints of such incidents progress to the extent of lodging FIRs and hung there forever.” (Refer Table 15.)

“Hence Maharaj, despite of everything i.e. the legal stirring, media reporting, police complaints and the uproar, the people of India choose such leaders. Let me mention a few eventful electoral victories based on such intrinsic emotional stimulus. The Law declared by Supreme Court under Article 141 of The Constitution of India confers seeking votes on in the name of religion, caste etc. as corrupt practice” (Refer Table 16.)

“Maharaj, I would briefly quote that the actors of the country’s film industry, are also used to stir emotional stimulus among the people by political parties and candidates. Since the countrymen respond to them so vividly, election time is an opportunity for them to make easy money, though unethical, but as we have seen worse moral fibers of politicians, this is not unforeseen. It’s all a vicious circle. Maharaj, off late, someone brought them to light by doing a sting operation called “Cobrapost, Operation Karaoke,” these actors have been caught on the camera admitting to support political parties or candidates in exchange of money. There is a long list of Indian celebrities embroiled in the expose.¹¹

10. http://adrindia.org/sites/default/files/Current_MPs_and_MLAs_with_Charges_related_to_Communal_Violence.pdf (accessed Feb, 2019).

11. <https://gulfnews.com/entertainment/bollywood/bollywood-stars-caught-in-political-sting-1.62164353> accessed February, 2019

TABLE 15 LIST OF MPS OF LOK SABHA 2014-19 WHO DECLARED PENDING COMMUNAL VIOLENCE CHARGES IN THEIR AFFIDAVITS WITH ECI'

Name	State/Dist.	Constituency	Party	Case Details
Badruddin Ajmal	Assam	Dhubri (Lok Sabha 2014)	AIUDF	<ul style="list-style-type: none"> IPC Sections - 120B, 153A, 153B, 109, Case No.-1415/2012, Dated 04-09-2013, CJM, Kokrajhar, PS Kokrajhar
Assaduiddin Owaisi	Telangana	Hyderabad	AIMIM	<ul style="list-style-type: none"> IPC Sections - 147, 427, 109, 114, 295, 153A, 149, CC No.112/2007, Cr. No.27/2006, PS Hussainilam, Chief Metropolitan Magistrate, Hyderabad, Date of Order 17/2/2007 IPC Sections - 147, 448, 427, 149, CC No.1492/2009, Cr. No.73/2000, P.S. Golconda, XVII Addl. Chief Metropolitan Magistrate, Hyderabad, Date of Order 3/2/2001, Pending Charges not yet framed IPC Sections - 147, 153A, 353, 290, 295A, 186, 341, 504, 506, CC No.27/2009, Cr.No.130/2005, PS Patencheru, Spl. Prohibition and excise Judicial 1st Class Magistrate at Sangareddy, Date of Order 13/06/2005, Pending Charges not yet framed
				<p>CHARGESHEETED:</p> <p>IPC Sections - 171, 188, 505, 425, 426, 433, Other Details - R/w Section- 131, 33, 36, 134 of Bombay Police Act and Section 133 Cr. P. C., Crime No. 70/2010, PS Itwara, Nanded Maharashtra, IX J.M.S.C. Nanded, CC No. 532/2001, Date of Cognizance 20/06/2011, Court Which Framed The Charge - IX J.M.S.C. Nanded, Date on Which The Charge Was Framed - 20-06-2011</p>
Uma Bharti	Uttar Pradesh	Jhansi	BJP	<ol style="list-style-type: none"> IPC Sections -, Other Details - Sec. 3/12 of Press Book Registration Act, Sec 127 RP Act, R.T. No.1078/2004, Cognition Dated. 04.09.2003, Judicial Magistrate First Class Bhopal. IPC Sections -, Other Details - Sec 2 of the Prevention of Insults to National Honour Act 1971 (PINHA2), R.T.C. No.368/07, Chief Judicial Magistrate Bhopal, Cognition Dated. 26.04.2006. IPC Sections - 500, Other Details - RT No. 134/05, Judicial Magistrate First Class Bhopal, Cognition Dated. 23.12.2005 IPC Sections - 353, 188, 145, 506, Other Details - Case No. 187/12, Cognition Dated. 14.08.2012, Civil Judge Judicial Magistrate, Charkhari, Mahoba (U.P), Shri High Court Allahabad In RIT No. 16266/13 Order Dated. 09.07.13 IPC Sections - 188, Other Details - Civil Judge Judicial Magistrate, Charkhari, Mahoba (U.P) Case No. 318/12, Cognition Dated, 06.09.2012, High Court Allahabad In RIT No. 18769/13 Order Dated 10.07.13, Sec 126 RP Act.

6. IPC Sections - 171H, 188, Other Details - FIR No. 509/12, Cognition Dated. 04.12.2012, Munsif Court Kulpahad District Mahoba, Revision case pending in the High Court Allahabad In RIT No. 16268/2013 In Order Dated 09.07.13
7. IPC Sections - 147, 148, 149, 307, Other Details - FIR No. 209/06, Cognition Dated, 31.10.2006, First Class Judicial Magistrate Bara Malhera District Chatarpur, Sec 25, 27 Arms Act.
8. IPC Sections - 147, 341, 323, 294, 506B, Other Details - FIR No. 210/06, Cognition Dated. 31.10.2006, First Class Judicial Magistrate Bara Malhera District Chatarpur.
9. IPC Sections - 147, 148, 149, 427, 323, 294, 506B, Other Details - FIR No. 211/06, Cognition Dated. 31.10.2006, First Class Judicial Magistrate Bara Malhera, District Chatarpur
10. IPC Sections - 147, 341, 294, 427, 506B, Other Details - FIR No. 212/06, Cognition Dated. 31.10.2006, First Class Judicial Magistrate Bara Malhera District Chatarpur
11. IPC Sections - 147, 148, 323, 294, 427, 307, 506B, Other Details - FIR No. 213/06, Cognition Dated. 01.11.2006, First Class Judicial Magistrate Bara Malhera, District Chatarpur,

CHARGESHEETED:

1. IPC Sections - 147, 149, 153A, 153B, 505, Other Details - Case no.4350/10, FIR No. 198/1992, Police Station Ram Janmabhumi Ayodhya, District Faizabad, Cognizance and Charges Frame Court - Special Judicial Magistrate Raibareilly, U.P. Aghtan, Cognition Dated. 28.07.2005, Charges frame Dated. 19.09.2003
2. IPC Sections - 500, Other Details - RT No. 5520/2003, Police Station Tallaiya Bhopal M.P., Civil Case, Cognizance and charges frame court - Chief Judicial Magistrate Bhopal, Shri Pankaj Maheshwari/ RT No. 5520/2003, Cognition Dated. 17.11.2003, charges frame Date 15.02.2005
1. IPC Sections - 143, 188, 283, 341, Other Details - Special CJM, Allahabad Case NO.703/2004 Criminal Case NO.177/2003 Date of Cog.-25/03/2004
2. IPC Sections - 302, 120B, Other Details - Section 7 C. L. A. Act, Criminal Case No.470/11, PS.-Kokhraj, Janpad-Kaushambi, UP, CJM, Kaushambi, Date of Cog.-07/11/2013 Present Pending in Additional District and Sessions Judge II Kaushambi, ST No.37/2014
3. IPC Sections - 153A, 188, Other Details - Criminal Case No.571/11, PS.-Kokhraj, Kaushambi, UP
4. IPC Sections - 147, 148, 153, 153A, 352, 188, 323, 504, 506, Other Details - Section 7 C.L.Act, PS.-Manjhanpur, Kaushambi, UP, CJM, Criminal Case NO.218/11, Case No.2187/2012, Cog. Date 07.05.2012
5. IPC Sections - 147, 295A, 153A, Other Details - Criminal Case No.82/08, PS.-Mohd. pur Paisa, Kaushambi, UP, CJM Kaushambi, Case No.1281/2002, Cog. Date 05/12/2008

Keshav Prasad
Uttar Pradesh Phulpur BJP

TABLE 15 (Cont)

Name	State/Dist.	Constituency	Party	Case Details
(Yogi Adityanath)	Uttar Pradesh	Gorakhpur	BJP	6. IPC Sections - 420, 467, 465, 171, 188, Other Details - Criminal Case No.83/08, PS.- Mohidpur, paisa, Kaushambi, UP; CJM Kaushambi Case No.2715/08, Date of Cog.- 24/11/2008 7. IPC Sections - 147, 352, 323, 504, 506, 392, Other Details - Criminal Case No.72A/2013, PS.-Manjhanpur, Kaushambi, UP 8. IPC Sections - 153A, 353, 186, 504, 147, 332, Other Details - Section 7 C. L. A. Act, PS.- Pashchim Vihar, Kaushambi, UP Criminal Case No.77/96 9. IPC Sections - 147, 323, 504, 427, 353, 506, 380, Other Details - Section 3/5 Prevention of Public Property Damage Act and Section 7 C. L. A. Act, PS.-Karnalganj, Allahabad, UP Criminal Case No.431/98, Special CJM Allahabad, Case No.1247/02, Cog. No.06.03.2000 10. IPC Sections - 147, 148, 332, 336, 186, 427, Other Details - Section 7 C. L. A. Act, PS.- Karnalganj, Allahabad, UP Criminal Case No.02/14
				1. IPC Sections - 147, 148, 153A, 295, 297, Other Details - Criminal No.43/99, CJM Maharajganj Court, Date 27/06/2000, F.R. No. 260/12, CJM Gorakhpur, Criminal Case No.7780/06
				2. IPC Sections - 147, 153A, 295, 297, 435, 506, Other Details - Criminal Case No.44/99, CJM Maharajganj, F. R. No. 261/2000, Date 27/06/2000, J. M. II Gorakhpur Criminal Case No.43/7, Thana Kotawali
				3. IPC Sections - 147, 148, 149, 307, 336, 504, 427, Other Details - Case No.44A/99, Date 26/6/2000, Case No. 2604/12 at Present
Nalinkumar Katil	Karnataka	Uttara Kannada	BJP	CHARGESHEETED: IPC Sections - 120B 153,153A,153B, 501, 504, 506(ii), 34, Other Details - Crime No. 55/09 of Sullia Police Station, Dakshina Kannada District, Karnataka, Registered on 07/02/2009 on the basis of the Private Complaint, PC No. 29/09 dated 04/03/2009, Cognizance by Hon'ble Civil Judge (Junior Division) & Judicial Magistrate First Class Court Sullia, Dakshina Kannada, CC No 1238/2010, Cognizance taken on 21/12/2010, Framed by Hon'ble Civil Judge (Junior Division) & Judicial Magistrate First Class Court Sullia, Dakshina Kannada on 21/08/2012
Mahesh Giri	Delhi	East Delhi	BJP	CHARGESHEETED: IPC Sections - 153A, 153B, 295, 505, Other Details - Sec.125 R.P. Act (RPA125), FIR No.66/2009, Dated-25/04/2009, PS Bhavnagar City, C-Division, 1st, Gujarat Section 153 AB, 295, Cr. Case No.7303/2009, Date of Cog.- 16/02/2012 by the Court of 5th Additional Chief Judicial Magistrate, Bhavnagar, Date(s) on which the charge(s) was/were framed- 25/03/2013

Sakshi Maharaj	Uttar Pradesh	Unnao	BJP	<p>1. IPC Sections - 147, 53, 153A, 332, 338, 295, 396, 397, Other Details - Criminal No 197/92 Date 16/11/1993 PS Kotwali Dist Faizabad UP</p> <p>2. IPC Sections - 153A, 323, 504, 506, Other Details - Criminal No 74/91 PS Kotwali, Kamlanagar, New Delhi, Court C.J.M. 3rd Hazari, Date-12-10-1991</p> <p>3. IPC Sections - 147, 323, 504, 506, Other Details - Criminal No 291/11 PS Kotwali, Etah, Court C.J.M Etah, Date-20-05-2011,Pending</p> <p>4. IPC Sections - 406, Other Details - Criminal No 1986/2010, PS Kotwali, Etah, Court C.J.M. Etah, Date-02-06-2010</p> <p>5. IPC Sections - 504, 506,147, 323, Other Details - Criminal No.-850/2012,PS Kotwali, Etah, Court C.J.M. Etah, Date-04-07-2012</p> <p>6. IPC Sections - 420, 467, 468, 471, Other Details - Criminal No.-570/2012 PS Kotwali, Etah, Court C.J.M Etah</p> <p>7. IPC Sections - 420, 468, 471, 467, 409, Other Details - Criminal No.-425/2010 PS Kotwali, Etah, Court C.J.M. Etah,, Date-27-01-2010</p> <p>8. IPC Sections - 302, 504, 506, 120B, Other Details - Criminal No.-462/2013 P.S. Kotwali, Etah</p>
Murli Manohar Joshi	Uttar Pradesh	Kanpur	BJP	<p>CHARGESHEETED: IPC Sections - 147, 149, 153A, 153B, 505, Other Details - 198/02, Case No. 768/2003, PS. Ram Janabhumi, Ayodhya, Distt. Faizabad, UP, Cognizance and Charges frame Court Additional Chief Judicial Magistrate, Raebareilly, UP, charges frame date 28-07- 2005,</p> <p>JUDICIAL PROCESS: Revision Petition No. 217/2001, High Court Allahabad (Lucknow) Gave order in the favor of candidate, Against filed a petition into the Supreme Court S.L.P.</p>
Lal Krishna Advani	Gujarat	Gandhinagar	BJP	<p>CHARGESHEETED: IPC Sections - 153A, 153B, 505, 147, 149, Other Details - Case No 4350/10 FIR No 198 of 1992 PS Ram Janabhoomi Faizabad Ayodhya UP, Court - Spl. Judicial Magistrate Lalitpur UP, Court Which Framed The Charge - Shri V.K. Singh, The Ch. Judicial-Cum-Spl. Magistrate, Rae Bareli, Date of Charges Framed - 28-7-2005, Whether All or any of the Proceeding Have Been Stayed by any Court of Competent Jurisdiction - No However Petition for Special Leave to Appeal (Ch)No.(S)2275/2011, From The Judgement and Order 20-05-2010 in Criminal Revision No. 217/2001 of The H.C. of Judicature at Allahabad Bench at Lucknow Has Been Filed by State Thru CBI VS Kalyan Singh and Others, Which is Pending)</p>

TABLE 15 (Cont)

Name	State/Dist.	Constituency	Party	Case Details
Brij Bhushan Sharan Singh	Uttar Pradesh	Kaiserganj	BJP	CHARGESHEETED: 1. IPC Sections - 147, 148, 149, 307, Other Details - Sec. 27 Arms Act, Crime No.- 467/1993, PS Nawabganj, Janpad Gonda UP, Charges frame Dt.-26.05.1995, Charges frame Court Fifth Additional Sessions Judge, Gonda
Suresh Angadi	Karnataka	Belgaum	BJP	2. IPC Sections - 395, 397, 332, 337, 338, 295, 297, 153A, Other Details - Sec. 7 of Criminal Law Amendment Act, Crime No.-197/1992, Thana Ram Janambhoomi, Ayodhya Janpad- Faizabad UP, Charges frame Dt.-17/8/2010, Charges frame Court Special Judge Ayodhya Lucknow
Ramshankar Katheria	Uttar Pradesh	Agra	BJP	CHARGESHEETED: IPC Sections - 153(A), 505(2), 172(C), Other Details - 123(3) & 123(3A) of Representation of Peoples Act. Case No.CC No.4/2010, FIR No. Market PS CR No.89/09, Police Station- Market PD, District-Belgaum, State-Karnataka, II JMFC Belgaum, Charges Framed on Date - 31.12.2009 1. IPC Sections - 147, 341, Other Details - Case No-294/10, fir No-191/2009, Thana Nai Ki Mandi, Chief Judicial Magistrate 7th Agra, Cognizance Date 18/5/2010 2. IPC Sections - 342, 332, 353, Other Details - Case No-1564/11, Fir No-786/09, Tajganj, Chief Judicial Magistrate First Class Agra, Cognizance Date 01/11/2011 3. IPC Sections - 419, 420, 467, 468, 471, Other Details - Case No-4487/10, Fir No-321/10, Chief Judicial Magistrate Agra, Thana Hariparwat 4. IPC Sections - 147, 323, 353, 504, 506, 332, Other Details - Case No-513/13, Fir No- 3/11, Thana Etmadpur, Distt. Chief Judicial Magistrate Agra, Cognizance Date 05/07/2011 5. IPC Sections - 147, 353, 504, 506, Other Details - Case No-512/13, Fir No-4/11, Thana Etmadpur, Distt And Chief Judicial Magistrate Agra, Cognizance Date 05/07/2011 6. IPC Sections - 147, 336, 342, Other Details - Case No-830/11, Fir No-10/11, Thana Nai Ki Mandi, Upper Chief Judicial Magistrate 7th Agra, Cognizance Dt 21/02/2011 7. IPC Sections - 147, 427, Other Details - Case No-, Fir No-11/2011, Thana Nai Ki Mandi, Chief Judicial Magistrate 7th Agra 12. IPC Sections - 147, 332, 341, 353, Other Details - Case No-708/2011, Fir No- 12/2011, Thana Nai Ki Mandi, Upper Chief Judicial Magistrate 7th Agra IPC Sections - 332, 353, 336, 427, 147, Other Details - Case No-580/11, Fir No-440/11, Thana Sahaganj, Upper Chief Judicial Magistrate 4th Agra, Cognizance Dt 01/10/2012 13. IPC Sections - 147, 323, Other Details - Case No-, Fir No-1191/10, Thana Hariparwat, Chief Judicial Magistrate Agra

				14. IPC Sections - 147, 452, 504, 506, Other Details - Case No-3974/13, Fir No- 261/12, Thana Hariparwat, Chief Judicial Magistrate Agra, Cognizance Dt 01/10/2012
				15. IPC Sections - 147, 353, 283,, Other Details - 174 Railway Act And 7 CL/A Act, Case No- 7753/13, Fir No-34/13, Thana GRP Agra Chavni, Cognizance Dt 22/08/2013
				16. IPC Sections - 147, 353, 283, Other Details - 174 Railway Act, Case No-7754/13, Fir No- 35/13, Thana GRP Agra Chavni, Cognizance Dt 22/08/2013, Upper Chief Judicial Magistrate Railway Agra
				17. IPC Sections - 147, 353, 283, 504, Other Details - 174 Railway Act, Case No-7755/ 13, Fir No-36/13, Thana GRP Agra Chavni, Upper Chief Judicial Magistrate Railway Agra, Cognizance Dt 22/8/2013
				18. IPC Sections -, Other Details - Sec. 146, 147, 174 Railway Act, RPF Agra Chavni, Upper Chief Judicial Magistrate Railway Agra, Cognizance Dt 25/02/2010
				19. IPC Sections - 188, Other Details - Case No, Fir No-183/11, 12, 09, Thana Parliament Street
				20. IPC Sections - 188, Other Details - Case No, Fir No-142/12, Thana Hariparwat, Chief Judicial Magistrate Agra,
				21. IPC Sections - 188, Other Details - Fir No- 478/10 Thana Hariparwat, Chief Judicial Magistrate Agra,
				22. IPC Sections - 147, 148, 149, 307, 504, Other Details - Case No. Fir No-61/10, Thana Sadar, Chief Judicial Magistrate Agra
				23. IPC Sections - 147, 341, 336, 353, 153A, Other Details - Fir No-62/10, Thana Sadar, Chief Judicial Magistrate Agra,
				24. IPC Sections - 188, Other Details - Case No- 207/2012, Fir No-598/11, Thana Hariparwat, Fir No-61/10, Thana Sadar, Chief Judicial Magistrate Agra, Cognizance Dt 12/01/2013
Kunwar Bhartendra	Uttar Pradesh	Bijnor	BJP	1. IPC Sections - 188, 153A, 353, 341, Other Details - Sec.7 Criminal Act, FIR No. 173/13, P.S. Sikhera, Distt. Muzaffarnagar, UP, ACJM-II Muzaffarnagar, UP Pending
				2. IPC Sections - 435, Other Details - FIR No. 178/13, P.S. Sikhera, Distt. Muzaffarnagar, UP, ACJM-II Muzaffarnagar, UP (Pending)
Anbumani Ramadoss	Tamil Nadu	Dharmapuri	PMK	1. IPC Sections - 153, 153A, Other Details - Cr.No.185/2013, Brammadesam Police Station, Villupuram Dist., Tamil Nadu
				2. IPC Sections - 143, 188, Other Details - Cr.No.177/2013, E1 Mamallapuram Police Station, Kancheepuram Dist., Tamil Nadu
				3. IPC Sections - 147, 294B, 323, 447, 506(1), 149, Other Details - Section 3 of TNPPD Act, Cr.No.366/2013, Ulundurpettai Police Station, Villupuram Dist., Tamil Nadu
				4. IPC Sections - 147, 148, 341, 353, 332, 325, 294B, 188, 506(1), Other Details - Cr.No.53/ 2010, Indur Police Station, Dharmapuri Dist., Tamil Nadu

TABLE 15 (Cont)

Name	State/Dist.	Constituency	Party	Case Details
				5. IPC Sections - 153A, 505(ii), 188, Other Details - Sec.125 RP Act (RPA125), FIR-Stage, Cr.No.228/2014, Dharmapuri BI Police Station, Dharmapuri Dist, Tamil Nadu
				CHARGES FRAMED
				1. IPC Sections - 147, 143, 188, Other Details - 7(1)(A)CLA Act, Cr.No.142/2012, Mamallapuram Police Station, Kanchipuram Dist. Tamil Nadu, DMC-Judicial Magistrate Court, Thirukazhukundram, Kancheepuram Dist., CC.No.44/2013, Cog.Date-11/7/2013
				2. IPC Sections - 120B, 420, 468, 471, Other Details - Section 13(2)r/w 13(1)(d) of Prevention of Corruption Act (PCA), 1988, R.C.No.0062010 A 0014, Special Judge Court No.4 for CBI Cases Lueknow, Cog.Date- 25/2/2013
				3. IPC Sections - 120B, 420, 465, 468, 471, Other Details - Section 13(2)r/w 13(1)(d) of Prevention of Corruption Act (PCA), RCAC2010 A0003 CBI New Delhi, Special Judge for CBI Cases, Patiala House Courts, New Delhi, Cog. Date - 8/6/2012
K Kavitha	Telangana	Nizamabad	TRS	IPC Sections - 153(A), 505(ii), Other Details - X Addl. Chief Metropolitan Magistrate at Secunderabad Crime no. 14/2004 & 07/01/2014
				IPC Sections - 188, 353, 427, 34, Other Details - JFCM at Mahaboobnagar Dist, FIR no. 61/2012 date-07/03/2012
Vinay Katiyar	Uttar Pradesh	Rajya Sabha	BJP	1. IPC Sections - 153A, 153B, 505, 147, 149, Other Details - Case No.198/92,Police Station Ram JanamBhumi Dist Faizabad U.P. Special Court Judicial Magistrate Date 28.07.2005
				2. IPC Sections - 298, 500, Other Details - CASE NO.3760/99, Alam Sarhadi Vs Vinay Katiyar Talvi Date 14.07.99 Chief Magistrate Court Barhuch
G Sudha Rani	Telangana	Telangana	TDP	1. IPC Sections -, Other Details - 174(A) Of Railway Act. The Court Special Magistrate Railway Court Kazipet, CC No. 541/08 Police Station Railway P.S. Kazipet Dist Warangal A.P.
				2. IPC Sections - 341, 290, 283, 188, Other Details - Crime No. 98/09, Cc No. 27/09, Police Station Mattewada Wrangal A.P. Iind Class Magistrate Wrangal
				3. IPC Sections - 153A, 188, 283, 290, 309, Other Details - CC No.315/09 The Court Charge Sheet Not Field 1st Addl. Munsiff Magistrate Wrangal Police Station Warangal

¹ http://adrindia.org/sites/default/files/Current_MPs_and_MLAs_with_Charges_related_to_Communal_Violence.pdf (accessed May 18, 2016).

TABLE 16 EXAMPLES OF OBTAINING ELECTORAL BENEFITS BY USING EMOTIONAL IMPETUS BY POLITICIANS

Time Line	Emotional Impetus	Electoral Benefit
1977–Till Date	Caste	Bihar MP Ram Vilas Paswan, himself a Dalit, makes a distinction between MLAs and MPs who act as “representatives of Dalits” and those that are “Dalit Representatives.” ¹ For Paswan, the tragedy of reserved constituencies is that Dalit voters are more likely to get the latter rather than the former: “Thus, elected would be Dalits, but they need not be Dalit Representatives, and have to be the Dalits elected by the dominant caste general voters. Hence, the namesake Dalit Representatives, unless they are basically tall within, and morally strong, had to look for approval of the dominant castes, before they speak or do anything.” ² The ideologue had established him as a leader of the Dalits and has sent him to the Lok Sabha since 1977.
1984	Caste Sympathy	Post assassination of the then Prime Minister Indira Gandhi, Congress won a record breaking 404 seats of the Parliament out of 543+2 seats. Highest in the Indian history till date, their previous tally was of 353 seats during the elections of 1980.
1990s–2018	Caste	Udai Bhan Karvariya, a state politician from Uttar Pradesh with connections to organized crime, won elections by declaring that he was going to use his power to benefit his constituency’s upper caste Brahmin population, which was under siege from newly empowered backward castes. As one of his Brahmin supporters plainly stated, “Udai Bhan is not a mafia don, he is our rescuer.” ³ The Propagation of such ideas has led Udai Bhan to hold onto as a MLC for quite long and become important in Uttar Pradesh Politics.
1996–2010	Religion	Former MP Mohammed Shahabuddin of Bihar, one of India’s most notorious criminal-politicians now in jail serving a life sentence for murder, derived a great deal of support from his constituency’s sizeable Muslim population, many of whom viewed him as a hero of the minority community. To his supporters, Shahabuddin’s political success was seen as crucial for ensuring the continued local prominence of Muslims in society. ⁴ As one supporter recalled, “He was 99 percent good, but people only speak of the 1 percent.” And of that 1 percent? “It’s like when a guardian gets angry with a child. Now Siwan [district] has no guardian.” ⁵ The waves created by Shahabuddin have been booking his tickets to the Lok Sabha since 1996.
1998	Caste	Kanshi Ram, founder of the pro-Dalit Bahujan Samaj Party (BSP), famously argued that reservation had been counter-productive because it allowed the upper castes to co-opt Dalit politicians who became <i>chamchas</i> (“sycophants”) of the upper castes, especially from the Congress Party. ⁶ By design, he argued, SC candidates contesting reserved seats are forced to cater to non-SC interests in order to win election. In his words, “A tool, an agent, a stooge or a <i>Chamcha</i> is created to oppose the real, the genuine fighter.” It ended up creating a future for BSP and Mayawati who have come to power in Uttar Pradesh for three occasions.

TABLE 16 (Cont)

Time Line	Emotional Impetus	Electoral Benefit
2004–2009	Caste	YS Rajasekhara Reddy, the strongman former Chief Minister of the southern state of Andhra Pradesh, earned his stripes as a young politician by rallying members of the Reddy caste, often through muscular tactics, against others seeking to contest the Reddys' local dominance in the Rayalaseema region (Balagopal 2007). ⁷ Rajasekhara Reddy formed a government in 2004 and swept the Lok Sabha polls in 2009.
2018	Religion	The Congress president Rahul Gandhi went to Kathmandu on his way to Kailash Manasarovar. Gandhi had vowed to undertake a pilgrimage to the holy mountain in Tibet after the aircraft flying him to Karnataka for the Assembly election campaign in April suffered a near miss, developing “technical snags” and plunging hundreds of feet. Gandhi wanted to visit what Hindus believe is the abode of the god Shiva to thank the deity for escaping unharmed. ⁸
2018	Religion	Gandhi launched his party's Rajasthan campaign from the Khatu Shyamji temple in Sikar and the Madhya Pradesh campaign from the Omkareshwar temple in Khandwa district. (2018). ⁹
2018	Religion	Amit Shah flagged Raje's Rajasthan Gaurav Yatra from Charbhujia temple, dedicated to Lord Vishnu, in Udaipur. ¹⁰
2018	Religion	Chief minister Shivraj Singh Chouhan, in the midst of the Jan Ashirvad Yatra, tried to visit the most important temple of the area he is campaigning in, and also has abiding faith in the powers of the Mahakaal temple in Ujjain. ¹¹
2018	Religion	Kamal Nath took charge as the Madhya Pradesh Congress president, on May 1, he went to the Mahakaal temple and topped it up with a visit to Datia's Peetambar Shaktipeeth. His poll campaign started from a tour of the Vindhya region on August 1, and he began with a visit to Ma Sharda temple in Mithar. ¹²
2018	Religion	Jyotiraditya Scindia started his Parivartan Yatra on May 11 with an elaborate two hour long pooja at the Mahakaal temple. The rally lasted for a week and he covered Dhar, Indore and Sehore districts where he visited local temples wherever he got a chance. ¹³
2018	Religion	Madhya Pradesh's leader of the opposition Ajay Singh started the second phase of his Nyay Yatra with former Congress president Arun Yadav from Chitrakoot after a visit to Kamta Nath temple, dedicated to Lord Ram. ¹⁴

2018 Religion Late in August, 2018, Narendra Modi was on two-day visit to Nepal. Before returning home on August 31, 2018 Modi prayed at Kathmandu's Pashupatinath, one of the holiest shrines for Hindus. It was his third trip to the 5th century temple since taking power in 2014.¹⁵

Prime Minister Narendra Modi's unprecedented decision to visit the Sheikh Zayed Grand Mosque in Abu Dhabi is receiving mixed reactions from the Muslim community back home, although political parties are avoiding commenting directly on it. While most Muslims are welcoming the "change of heart" in Modi who had once refused to wear the trademark skullcap offered to him by some ulemas.¹⁶

The Dawoodi Bohras' patriotism is an example for India to follow, Prime Minister Narendra Modi said on Friday, addressing the community members at the Saifee Mosque in Indore's Saifee Nagar. He called them his "family."¹⁷

¹ Milan Vaishnav, Caste Politics, Credibility and Criminality: Political Selection in India, Columbia University Papers (accessed September 29, 2011).

² <http://www.dalitindia.com/guest/DalitPol.htm> (accessed April 15, 2011).

³ Tehelka "Engineer of Violent Takeovers: Uday Bhan Karvariya." October 2, 2004.

⁴ Milan Vaishnav, Caste Politics, Credibility and Criminality: Political Selection in India, Columbia University Papers (accessed September 29, 2011).

⁵ <http://archive.indianexpress.com/news/as-girls-cycle-to-school-and-shahabuddin-bec/629780/>

Indian Express (accessed June 5, 2010).

⁶ Christophe Jaffrelot, 1998. "The Bahujan Samaj Party in North India: No Longer Just a Dalit Party?" *Comparative Studies of South Asia, Africa, and the Middle East* 18(1): 35-52.

⁷ K. Balagopal, 2004. "Andhra Pradesh: Beyond Media Images." *Economic and Political Weekly* 39.24: 2425-2429.

⁸ <https://scroll.in/article/893914/religion-pays-how-temple-visits-by-top-indian-politicians-are-boosting-tourism-in-nepal>

⁹ <https://www.hindustantimes.com/india-news/party-leaders-embark-on-temple-runs-ahead-of-elections-in-mp-rajasthan/story-SPepbGZwSvF3EQhJ6wyXal.html>

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ <https://scroll.in/article/893914/religion-pays-how-temple-visits-by-top-indian-politicians-are-boosting-tourism-in-nepal>

¹⁶ <https://www.indiatoday.in/india/story/modi-mosque-visit-attracts-mixed-response-from-muslims-288744-2015-08-17>

¹⁷ <https://www.thehindu.com/news/national/other-states/at-saifee-mosque-narendra-modi-speaks-about-vasudhaiva-kutumbakam/article24944033.ece>

A few prominent names such as Sunny Leone, Abhijeet Bhattacharya, Kailash Kher, Mika Singh, Baba Sehgal, Jackie Shroff, Shakti Kapoor, Vivek Oberoi, Sonu Sood, Ameesha Patel, Mahima Chaudhry, Shreyas Talpade, Puneet Issar, Tisca Chopra, Rohit Roy, Rahul Bhat, Rajpal Yadav, and Sambhavana Seth were exposed in the controversy.”

“Sanjay, all I want to say is that let us return to the stage of seated meditation to soothe our nerves, to ensure our readiness to further examination of the democratic layers.”

“Indeed Maharaj, I, your prime and nearest servant, very adequately understand how unnerving it is to quietly endure the unsettling, unjust, immoral inactions of other beings in the rightful position to act” Sanjay joined hands in reverence, closed his eyes and inhaled deeply.

CHAPTER 10

THE MODERN TECHNOLOGICAL CONSULTANT

Nothing is coincidental during Elections, It is all Technological!

Maharaja Dhritarashtra strolled with Sanjay holding his hand. Sanjay could feel Maharaj's anxiety over the next thing Sanjay wanted to talk about. He had hinted him that a new kind of supreme wisdom was available in Kalyuga in exchange of money. Maharaja, being perturbed, demanded an explanation of such materialism.

“Sanjay,” Maharaja paused, “Ours was the era that attended the appearances of various Maharishis, Rajarishis, Devarishis, Brahmarishis, Rishis, Munis, Sadhus, Sants, Sanyasis and Bhakts who devoted their precious life energies into the penances. After ages of uphill battle, grinding and beating obstacles, one would attain some progression. Life after life, pledging uncountable lives, these discreet personalities would attain a drop of that divine, absolute wisdom. The sages of the level of Rishis could have that revered connection with the absolute that they could know the past, present, future of all beings existing and non-existing at a given time. Even a negligible iota of such wisdom cannot be obtained in exchange of material. You must retract instantly about what you indicated.”

“Maharaj, we must recite the *shloka* on *Tamas guna* from Krishna,” Sanjay made the Maharaj seated, got himself placed. Both of them pressed their palms against each other and recited.

तमस्त्वज्ञानजंविद्धिमोहनंसर्वदेहिनाम् |
प्रमादालस्यनिद्राभिस्तन्निबध्नातिभारत || 8||

tamas tv ajñāna-jam viddhi mohanaṁ sarva-dehinām
pramādālasya-nidrābhis tan nibadhnāti bhārata

– Chapter 14, Text 8, Shrimad Bhagavad Gita

Meaning:

O Arjuna, tamo guṇa, which is born of ignorance, is the cause of illusion for the embodied souls. It deludes all living beings through negligence, laziness, and sleep.

Explanation:

Tamo guṇa is the antithesis of sattva guṇa. Persons influenced by it get pleasure through sleep, laziness, intoxication, violence and gambling. They lose their discrimination of what is right and what is wrong, and do not hesitate in resorting to immoral behavior for fulfilling their self-will. Doing their duty becomes burdensome to them and they neglect it, becoming more inclined to sloth and sleep. In this way, the mode of ignorance leads the soul deeper into the darkness of ignorance. It becomes totally oblivious of its spiritual identity, its goal in life, and the opportunity for progress that the human form provides.

After the recitation, Sanjay looked at Maharaja; he had already attained placidness. Sanjay began, “Maharaj, this Kalyuga is full of *Tamas guna* people. All poor or rich, they focus on their self-centered petty gains. As we have understood Maharaj, how the poor and middle classes are handled with doles and sentiments respectively. We now move to the category of well-off people, upper middle classes and meagerly rich, who care to vote.

The wealthy subjects and their politicians are both involved in the gratification of senses. They live the ignorant delusional life of self-centered pleasures, promiscuity, self-gratification through social media, leisure, apathetic relationships, debauchery, narcotics and other possible self-glorifying activities. It is almost impossible to expect their votes merely on doles and emotional aspects unless the politician could appeal to such voters through their smaller selfish world.

And Maharaj, to outreach such *Tamasic* (Materialistic) group of people, the divine wisdom is neither required nor can be attained by the *Tamasic* (Materialistic) politicians in question. It is only the play of technology that captures the behavior of the private lives of the subjects, then get that data collected and processed by the Information Technology giants and commercially sold to the Politicians as analytics. Maharaj, it's developing as an Industry.”

“I must express my Gratitude to you Sanjay, to lift this burden from my heart. I am eager to know their little technological trickeries used to gain this (*Tamasic*) Materialistic wisdom.”

“Yes Maharaj, this trickery is small but it's a massive violation of citizens' privacy in the modern world. As the people get more and more dependent on their smartphones, right from using it as their alarm clock, booking cabs, using GPS, ordering food and grocery, listening music, reading books, online purchasing, social media interactions, googling, watching videos and playing games apart from basic talking and messaging, they are unknowingly leaking their personal lives to the unknown. All this information gets stored in their phones and isolated servers through use of social media and passed on to the data profiling companies. These organizations store all the captured information in their data warehouses and process them in various ways and sell them to various customers such as marketing experts of various industries, Media

houses, and Political Parties. This revolutionized dangerously information-packed data is called ‘Big Data.’”

“Sanjay, this so called wisdom, this Big Data, is nothing but the stolen shadows of the countrymen. Not of wealth, not of health, not of relationship, not of religion, not of knowledge but this is the theft of one’s privacy. The matters between man and God are stolen and sold to some commercial moguls. This smartphone is nothing but a conveniently pleasurable disloyal whore. This enslaving copulation of human and smartphone must be shunned.”

“Maharaj, allow me to recommend a non-judgmental attitude of the monarch such as you. The exceedingly fast lives, pressures of work, relationships, finances and society take a toll on commoners. The smartphones bring ultimate solace with that video call or home delivery or surfing on social media after an overworked day. Let us trust in the development of awareness related to technological crimes and safety. The people shall eventually become safe. They could still be safe if they exercise sufficient wisdom with the usage of their smart phone. Just leave it on the time, Maharaj, let them evolve. For now, they are indeed exposed to the Business houses and Politicians as ‘Data’. They are analyzed, scrutinized, categorized and then, transformed into the Election Campaign Plan. The execution of this election plan reaches out to them in terms of personalized messages, loan sanctions, candidates visiting their favorite restaurants, candidates appearing in their favorite programs, listening to their favorite music. The Big Data transforms into colossal deception and this concept of Big Data has changed Election Campaigns all over the world including India. This foreknowledge of voters’ psychometrics assists the political parties to appeal in the most effective manner and tap the otherwise inaccessible and unapproachable intellectual and educated class of voters. Here is some relevant news flash.”

In 2012, in the Obama campaign creating an analytic department five times as large as its 2008 team and the campaign strategists, for the first time, relied more on Big Data analytics than traditional media consultants. Personalized messages were sent via social media platforms to prospective voters to ensure higher voter turnout and to influence swing voters.

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In India, the 2014 elections were one of the first to use data, technology, and digital platforms played a central role in the way the campaigns were designed, structured, targeted, implemented, and communicated. The rest of the world followed suit in a frenzy and the Indian Parliamentary elections in 2014 saw digital campaign strategists from across the political spectrum adopting many of these proven tools.¹

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1. Technology: ‘Big Data’ transforming electoral politics in India, *National Herald*, <https://www.nationalheraldindia.com/news/technology-big-data-transforming-electoral-politics-in-india> (accessed Feb, 2019)

Data analysis from a variety of sources allowed for these interactions to be targeted to a specific demographic, and geography. Data analytics, during the 2014 elections also allowed candidates to understand the voter stance of a particular demographic and re-tweak their campaign accordingly. This allowed for wider micro target their messages, and selectively chooses their medium of communication and technology.²

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The BJP had data on each of the 543 constituencies. They knew how many mobile and Internet users were present in each constituency. The same holds true for social media users. Alongside, they used analytics to understand which polling booths had voted for the BJP in the previous elections. For each polling booth, data analytics was used to segregate voters into blocks to determine who were pro, undecided or against the BJP. They first used deep analytics to understand group communication behavior and then used appropriate technology to communicate with them.³

The 2014 Modi campaign heavily used social media data to target voters and market their candidates. The 18-month long campaign was backed up by meticulous research done over the span of 3 to 4 years. They got voter feedback and addressed voter concerns and issues in real time. It bridged the gap between the candidate and the average voter. With millions of people feeding them real-time data, analytics saw to it that status updates on social media would reflect the opinions of voters. Modi used voice broadcasting to target mobile-only voters. Understanding the voters preferences also helped in placing ads where there is a higher chance of them being seen and clicked on. Modi's team carefully monitored social media conversations where BJP was being discussed and promptly responded to concerns voiced. The campaign spread over the Internet and mobile with numerous social media campaigns to bring together BJP volunteers on the ground. With the advanced use of analytics, the Modi campaign targeted 810 million voters, 543 constituencies across 1.13 million polling booths.⁴

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Technology and data analysis had come to play a crucial role in 2014 election which had used over 930,000 polling booths and 1.7 million voting machines, with 11 million personnel participating.⁵

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2. Lok Sabha Elections 2019: Data and Analytics Are Going to Rewrite History, *Analytics India Magazine*, <https://www.analyticsindiamag.com/lok-sabha-elections-2019-data-and-analytics-are-going-to-rewrite-history/> (accessed Feb, 2019)
 3. <https://callhub.io/changing-face-political-campaigning-strategies-india/> (accessed Feb, 2019)
 4. Ibid.
 5. How big data has changed India elections, April 10, 2014, <https://www.cnn.com/2014/04/10/how-big-data-have-changed-india-elections.html> (accessed Feb, 2019)

Political parties are now increasingly leveraging big data tools to increase voter turnout and swing the elections in their favor. A previous news report⁶ indicated how the Indian National Congress (INC) party president Rahul Gandhi is now banking on the party's data analytics department to analyze vote share, seats and shifting voting patterns from 2009 to strategize against the current ruling party—Bharatiya Janata Party (BJP) in the 2019 elections.

“Did you observe this, Maharaj?” Sanjay asked politely with his head bowed.

“Sanjay, this is a different tangent of plush manipulation of the plush cosmopolitan masses by their plush leaders. I behold my comments as it doesn't evoke the deep stirrings of sympathy from my core. Let it be their internal matter, those who invite the wrath of breach of privacy by reluctantly engrossing themselves to the delight of their smartphones and those who exploit them. Let them be. Let it be. Tell me more, Sanjay, I am just a mum witness.”

“Yes Maharaj, you are indeed the best perfectly mum witness, I have witnessed in my life! Let's get on with the analysis of problem in hand.” Sanjay gazed with a deep sigh at the blind Maharaja. Maharaja's face was expressionless, as always.

“Maharaj, this data has been reported to be collected through 61 apps, social media, and missed calls.⁷ Now let me mention a few Information Technology Giants involved in collecting and sharing election relation data.”

Some of the companies that collect and share election related data:

- (i) **Datanet India**—Datanet India is a domestic company providing secondary level socio-economic and political statistical information about India, its states, regions, districts, and electioneering. The company has developed the site www.electionsinindia.com which provides access to election results in India, GIS based analysis of demographic and electoral attributes (village, town and polling station), and analysis of the results of Parliamentary and Assembly elections of the country.
- (ii) **IDFC Institute**—The IDFC institute has created a publicly available interactive database for disaggregated Parliamentary, State, Municipal and Panchayat election results that also contains data on demographics, luminosity, financial inclusion etc.⁸

6. Rahul Gandhi banks on “big data” analysis to counter PM Modi in 2019 Lok Sabha elections, *India Today*, <https://www.indiatoday.in/india/story/rahul-banks-on-big-data-analysis-to-counter-modi-in-2019-1252588-2018-06-07> (accessed Feb, 2019)

7. “Why India has nothing to fear from rightful use of big data,” *Economic Times*, April 01, 2018, <https://economictimes.indiatimes.com/news/politics-and-nation/why-india-has-nothing-to-fear-from-rightful-use-of-big-data/articleshow/63560703.cms> (accessed Feb, 2019)

8. Electoral Data- Related Publications, IDFC Institute, <http://www.idfcinstitute.org/projects/state-capacity/electoral-data/#project-related-publications> (accessed Feb, 2019)

- (iii) **Apriori**—Apriori is a domestic company that compiles data from final or draft electoral rolls and combined and standardized with data from Indian Post. According to the company, the data is aggregated over many years and enables the tracking of citizens over time.⁹
- (iv) **IndiaVotes**—IndiaVotes is a domestic company that serves as election resource covering election data on the Lok Sabha elections since 1952 and the State elections since 1977. It aims to become an open source equivalent to Wikipedia for election information in India. The company uses and analyzes data from the public domain and provides summary reports and elections maps.¹⁰

“Maharaj, in this modern era, most strong political parties also have their internal IT and analytics divisions and strategists. After the data gathering, the analytics take place, and there are some companies who are reported to be associated with elections in India with political parties.”

Some companies that have been generally associated with elections in India for analytics are mentioned below:

- (i) **SAP**—Systems, Applications, Products in Data Processing is a global company that worked with the BJP party in the 2014 elections for tracking social media performance and in designing the BJP strategy. SAP offers a platform called SAP Social Media Analytics that provides social media monitoring, real time Facebook and Twitter Message Response, complete Social Profile and history, social media analytics, and implementation experience through simulated engagements.¹¹
- (ii) **Oracle**—Oracle is a foreign company that, according to media reports, played a similar role in the elections as SAP, working with the BJP to help with social media analysis and strategy.¹² Though noted in news items, the multinational company has not publicly announced its involvement in the elections and it is unclear what solutions were used.
- (iii) **Modak Analytics**—Modak Analytics is a domestic analytics company founded in 2010. The company offers a range of solutions and services—one being Modak Optimus a tool for managing campaigns and tracking their performance. Features of the solution included sending SMS and e-mail alerts to customers, geospatial analysis, real time visualization of customers against attributes on geographic maps based component, interactive charts for displaying and selecting the data for attributes, segmentation

9. Apriori Data, <https://www.aprioridata.com/india-data/#enhance>

10. IndiaVotes: India's largest election database, www.indiavotes.com

11. The Role of SAP In The Historic Win of BJP', <https://www.stechies.com/role-sap-historic-win-bjp/> (accessed Feb, 2019)

12. Oracle Industries, <https://www.oracle.com/industries/index.html> (accessed Feb, 2019)

schemes, predictive models, sampling of control groups using segmentation schemes.¹³ During the 2014 elections, Modak Analytics built an Electoral Data Repository and developed heat maps, data visualizations, and machine learning algorithms.

- (iv) **ThoughtBuzz**—ThoughtBuzz is a domestic social media intelligence company that offers analytics platforms, a digital dashboard, as well as specific solutions in social media marketing, social selling, social customer management and social customer service. The company created a platform that tracked the sentiment around political manifestos during the 2014 elections.

“Sanjay, this is ironic that a whole industry based on the stolen privacy data is established and in huge demand. Somebody’s identity is somebody’s business, what a Kalyuga. I am inquisitive about how Indian Courts are dealing with such violation of privacy, kindly enlighten me with something.”

“Yes Maharaj, there is some respite through Supreme Court of India.”

The nine-judge Constitution Bench of the Supreme Court in *K.S. Puttaswamy v. Union of India*¹⁴ (2017) has declared right to privacy as a fundamental right under the constitution and overruled its own previous eight-judge Bench and six-judge Bench judgments of *M.P. Sharma v. Satish Chandra*¹⁵ (1954) and *Kharak Singh v. State of Uttar Pradesh*¹⁶ (1963) cases delivered in 1954 and 1961 respectively, both of which had pronounced that right to privacy is not protected under the Constitution.

“Maharaj, the clock of the modern world is ticking and immorality and corruption is moving toward virtual world. The evolving civilization is yet to understand the dangers of the Data Privacy breach. Let us hope, the people understand that their favorite applications are stabbing them in their back by profiling and selling their data into commercial hands. Maharaj, in one case, data of over 5.6 lakh Indian Facebook users is reported to be harvested by an application that shared its record with analytics and consulting company Cambridge Analytica.¹⁷ Cambridge Analytica (the UK-based firm) at the heart of a massive worldwide data breach and pitched a proposal last year to the Congress party, which included ‘data mining of Facebook posts and tweets’ and ‘influencing voter intention’ for the 2019 national election. NDTV has exclusively accessed the proposal that promised a ‘data-driven campaign’ with an estimated cost of around Rs.2.5 crore. In 2019, it is estimated there will be 25.8

13. Modak Optimus, http://www.modakanalytics.com/modak_optimus.html (accessed Feb, 2019)

14. *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

15. *M. P. Sharma and Ors v. Satish Chandra*, AIR 1954 300, (1954) SCR 1077.

16. *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

17. CambridgeAnalyticamayhaveaccessed5.6lakhIndians’data:Facebook,<https://timesofindia.indiatimes.com/india/cambridge-analytica-may-have-accessed-5-6-lakh-indians-data-facebook/articleshow/63636221.cms> (accessed Feb, 2019)

crore social network users in India up from close to 16.8 crore in 2016, according to a market research firm.

The Facebook-Cambridge Analytica (CA) controversy is about user privacy and dodgy ways of collecting personal data. That's a matter of policy regulation, not electoral process. Whether tech giants that depend on advertising revenue generated by loose privacy controls can find another business model, if regulation makes data hovering tough, is a crucial question. But that's not related directly to elections.¹⁸ Data analytics is moving out of research labs into real-time monitoring of people's reaction to politics, policy and rapid responses to crisis situations. It will play a significant role in changing some political outcomes this election."

"This is indeed an invitation to a complex world Sanjay, where everyone's whole lives, background, financial, educational, personal, professional, vocational, legal data would be in somebody else's hands. Such people may use anyone as their puppet whenever they wish. This is such a big risk! How could the Lawmakers sit idle on the matter of such grave intensity?"

"Maharaj, there is Law, the implementations and patching-loopholes are maturing with time. Please have a look along with Justice A.P. Shah's recommendations."

Important provisions of IT Act related to data protection:

- **Section 43A** of the IT Act, 2000 explicitly provides that whenever a corporate body possesses or deals with any sensitive personal data or information, and is negligent in maintaining a reasonable security to protect such data or information, which thereby causes wrongful loss or wrongful gain to any person, then such body corporate shall be liable to pay damages to the person(s) so affected.
- Further, **Section 72A** provides for the punishment for disclosure of information in breach of lawful contract and any person may be punished with imprisonment for a term not exceeding three years, or with a fine not exceeding up to five lakh rupees, or with both in case disclosure of information is made in breach of lawful contract.

On the other hand, Justice A. P. Shah panel has also recommended an overarching law to protect privacy and personal data in the private and public spheres. It has spelt out nine national privacy principles that could be followed while framing the law:

- (i) A data controller should give prior notice of collection and information to all individuals before taking consent.

18. <https://economictimes.indiatimes.com/news/politics-and-nation/data-or-neta-why-big-data-is-of-little-use-when-it-comes-to-elections-in-india/articleshow/63586813.cms> (accessed Feb, 2019)

- (ii) Individuals should be given choice to opt in/out with regard to providing personal information.
- (iii) Data collectors should only collect personal information necessary for the purpose identified.
- (iv) If there is change of purpose, it must be notified to the individual. After use in identified purpose, data should be destroyed.
- (v) Individuals should have access to personal information for seeking correction, changes, deletion, etc.
- (vi) Personal information to third parties should only be disclosed or made public after giving notice and seeking informed consent.
- (vii) Data collectors should ensure security safeguards against loss, unauthorized access, destruction, use, etc.
- (viii) For openness, information should be made in an intelligible form, using clear and plain language, available to all individuals.
- (ix) Data controller should be accountable for complying with privacy measures such as external, internal audits and extending necessary support to privacy.

“Sanjay, I may only hope and pray, that they understand the pit that is being dug for them. The civilizations are straightway victimized to unwilling consumerism. Their expenditures would kick off being subconsciously in touch of such relevant commercials. Their smartphones know about them, much more than they know about themselves. They would think of something and might see a relevant advertisement the moment they unlock their phones. Shame on this captivating consumerism which flourishes on the credit cards of the laidback ignorant civilians! My prayers for their Materialism calling (*Tamas guna*) to convert into Krishna’s calling (*Sat guna*)” and Maharaj bowed his head.

“Maharaj, I also pray that your prayers get answered but be rest assured that human life of this era is all entangled with technology. I also wanted to bring to your notice the front scene technological advancement by Election Commission of India by introducing EVMs—the Electronic Voting Machine for casting the votes during Election day. Until 1998, the old method of Ballot paper stamping was used but that invited lot of booth capturing incidents and fraud¹⁹.

But, as you know Maharaj, the back stage ‘Technomics’ is more uncanny and hence many apprehensions of EVM hacking surfaced. Unlike the glorified Big Data business, hacking is distinctively loathed as a Technological Crime. A mere suspicion of hacking sends shockers to the bones of people. There are

19. The impact of Electronic Voting Machines on electoral frauds, democracy, and development, <https://www.brookings.edu/research/working-paper-using-technology-to-strengthen-democracy/> (accessed Feb, 2019)

several studies in public domain today that allege that EVMs hardware and software can be tampered with to practice election malpractices. Although the Election Commission of India has maintained that such a thing is not possible in the EVMs which they have been using. Some court cases were also filed contesting the accountability of EVMs. Here is the brief.”

*Dr.Subramaniam Swamy v. Election Commission of India*²⁰ (2013)

Dr. Subramanian Swamy, the appellant herein contended before the Supreme Court that the present system of EVMs, as utilized in the last few general elections in India (2009), does not meet all the requirements of the international standards and though the ECI maintains that the EVMs cannot be tampered with, but the fact is that EVMs, like all electronic equipment, are open to hacking. Swamy further highlighted that the instant matter arises out of the refusal of the ECI to incorporate a certain obvious safeguard in the EVMs called “paper backup,” “paper receipt” or “paper trail,” presently in use and mandated in some countries like USA, which would easily and cheaply meet the requirement of proof that the EVM has rightly registered the vote cast by a voter. He further highlighted that the “paper trail” system is to supplement the procedure of voting as in this procedure, after recording a vote in the EVM, a print-out will be generated which will appraise the voter that his vote has been rightly registered and the same will be deposited in a box which can only be used by the ECI in case of election dispute.

Supreme Court accepted the contentions of Swamy and observed that from the materials placed, the court is satisfied that the “paper trail” is an indispensable requirement of free and fair elections. The confidence of the voters in the EVMs can be achieved only with the introduction of the “paper trail.” EVMs with VVPAT system ensure the accuracy of the voting system. With an intent to have fullest transparency in the system and to restore the confidence of the voters, it is necessary to set up EVMs with VVPAT system because vote is nothing but an act of expression, which has immense importance in a democratic system. Taking notice of the pragmatic and reasonable approach of the ECI and considering the fact that in general elections all over India, the ECI has to handle one million (ten lakhs) polling booths, Supreme Court permitted the ECI to introduce the same in gradual stages or geographically in the ensuing general elections. The area, state or actual booth(s) are to be decided by the ECI, and the ECI is free to implement the same in a phased manner. For implementation of such a system (VVPAT) in a phased manner, the Government of India was directed to provide required financial assistance for procurement of units of VVPAT. With the above directions, the petitions were disposed of.

Ramesh Pandey v. Election Commission of India²¹ (2017)

In this very interesting Special Leave Petition filed by Ramesh Pandey against an order of Uttarakhand High Court, which had upheld the blanket ban on the

20. *Dr.Subramaniam Swamy v. Election Commission of India*, (2013) 10 SCC 500.

21. *Ramesh Pandey v. Election Commission of India*, SLP No. 20926/2017, Supreme Court.

criticism of the EVMs after the Election Commission had banned such endeavors from parties and candidates, the Supreme Court effaced the following part of the observations of the High Court:

“... We, however, in the larger public interest restrain all the recognized National Political Parties, recognized State Political Parties, other political parties, Non-governmental Organizations (NGOs) and individuals from criticizing the use of EVMs in the recently conducted elections of the State Assemblies even by approaching the Electronic Media, Press, Radio, Facebook, Tweeter etc. till the decision of the election petitions.”

While disposing the petition, the Supreme Court was of the view that the effectiveness of the EVMs does not require their consideration. The blanket ban on criticism of EVMs imposed by Election Commission and upheld by Uttarakhand High Court was erased by Supreme Court, upholding the fundamental right of speech, as guaranteed by the Indian Constitution.

“Maharaj, let me also point out a press Release by Election Commission of India about the reliability of EVMs”

Credibility of Electronic Voting Machines- regarding.

Press Note March 16, 2017

... ..

... The Election Commission would like to underline that it always had a firm conviction and complete satisfaction that EVMs could not be tampered with. Its faith on the machine has never wavered through the conduct of elections in the last many years including the nationwide general elections in 2004, 2009 and 2014. To date, no one has been able to actually demonstrate that EVMs used by the Election Commission can be tampered with or manipulated. What has been demonstrated or claimed to have been demonstrated is on a privately assembled “look-alike of ECI-EVMs” and not the actual ECI-EVM. However, the extraordinary measure of requiring demonstration in ECI HQ in 2009 was undertaken by the Election Commission in fulfilment of its responsibility not to allow even a small shade of doubt about any aspect of its operation and in order to set at rest any misgiving anywhere.

Today, the Commission once again completely reaffirms its faith in the infallibility of the EVMs. These are fully tamper-proof, as ever.²²

“Maharaj, let me also refer to the Indian Law related to the tampering of EVMs. This is a tool to execute the power of democracy and hence taken extremely seriously by the Election Commission of India.”

Law against Tampering of EVMs/Ballot Papers:

Sec 135 of the Representation of the People Act, 1951: If the Presiding officer of a polling station has reason to believe that any person has removed ballot

22. <http://pib.nic.in/newsite/PrintRelease.aspx?relid=159351> (accessed Mar, 2019).

paper or EVM out of polling station, such officer may arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer. On the orders of the Presiding Officer, Police can arrest the offender and impose 1 year imprisonment or fine or both.

Sec 135A of the Representation of the People Act, 1951: Booth capturing is an offense. “Booth capturing” includes seizure of a polling station or a place fixed for the poll by any person making polling authorities surrender the ballot papers or voting machines; or allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote.

Sec 136 of the Representation of the People Act, 1951: If any person fraudulently defaces or fraudulently destroys any ballot paper or EVM or the official mark on any ballot paper or EVM or puts into any ballot box anything other than the ballot paper, or pastes any paper, tapes etc. on the symbol/names/ ballot button of EVM for the purpose of the election commits an offense.

“Maharaj, EVM machines are manufactured by two central government undertakings: Bharat Electronics Limited (BEL) and Electronics Corporation of India Limited (ECIL) and are claimed to be totally foolproof by the ECI. The ECI however, decided to move toward Voter Verifiable Paper Audit Trail (VVPAT) EVMs to gain people’s confidence on the free and fair elections. A VVPAT is intended as an independent verification system for voting machines designed to allow voters to verify that their vote was cast correctly, to detect possible election fraud or malfunction, and to provide a means to audit the stored electronic results. It contains the name of the candidate (for whom vote has been cast) and symbol of the party/individual candidate. The First VVPAT EVM was used in Nagaland during the 2013 polls.²³ The ECI plans to implement VVPAT EVMs in the whole country.”

“Hail, the Election Commission of India. Sanjay, I am blind but I can see the crude and antagonistic environment the ECI has to survive and act. Despite the extreme controversy on the Electronic Voting Machines by various Political Parties, ECI maintained the glory of its stance. Very gradually and strategically, the ECI has successfully introduced VVPAT EVMs also. This shall burn all apprehensions and un-invite the Kalyugi Scams and Lawlessness. You were precise in your statements Sanjay, when you highlight your faith in the modern human civilization. They shall evolve. They shall mature. It shall all be fair and equitable, eventually.”

“Indeed Maharaj, my profound blessings” Sanjay smiled and joined his palms honoring the innate feelings of his old Master.

23. <http://www.uniindia.com/nagaland-first-state-in-the-country-to-vvpat-in-2013-polls/states/news/1109799.html> (accessed Mar, 2019).

PART III

THE POLITICAL MUSICAL CHAIR



CHAPTER 11

THE STAR WARS

Overturning a Government is Inevitable

“Maharaj, get prepared for the obvious. When the governments get old and the citizens get weary of listening to their failures, corruptions, inactions and unmet expectations they get prepared for a new hope, new promises and pave way to someone new.”

“Sanjay, irrespective of what you say, as I see the modern world, one deceiver would replace the other, one manipulator would topple the other, more ingenious would defeat the lesser one. So on and so forth, they are all politicians. It is nothing but their game of trickery, muscularity, money-power, media-power, networking and dramatics. Since, these modern world wars has replaced the sacrifice of soldierly lives with the sacrifice of human sanctity, this dynamics arouses curiosity to my mind. Go on, Sanjay.”

“Maharaj, how does this sound to you, ‘*Ab ki Baar, Modi Sarkar!* (This Time, Modi Government); *Achhe Din* (Good days), *Mein Bhi Chowkidar* (I am also Guard)’,” Sanjay laughed.

“Sanjay, could you please ponder on these enticing lyrics?”

“Maharaj, our *Bharat-varsh* is famous for many things but during election time, it is most famous for its catchy slogans. Indian politics has a rich history of slogans which provide humor, interest and enthusiasm needed to engage pundits (the intellectuals) and gullible voters alike. Some of the most memorable slogans include “*Garibi Hatao, Indira Lao*” (Eradicate poverty, Bring Indira), “*Jai Jawan, Jai Kisan*” (Hail the Soldier, Hail the Farmer); “*Sonia Nahi Ye Aandhi Hai, Doosri Indira Gandhi Hai*” (This is not Sonia but windstorm, she is another Indira Gandhi). Such emotive campaigns resonated with the nation and secured victory for the political leader or party.”

“Sanjay, they look like the composition of some artistic flared people. I assume that the ingenious politician has hired some great talent with him. Tell me Sanjay, what do you see?”

“Maharaj, as I have already disclosed, it has become an Election Industry in India. The party that wants to come into power is usually the next big party

and is either officially established as the Opposition Party in the Parliament or generally perceived as the Opposition due to its leaders and valiant strategies. These parties shine like stars in the sky and undergo interesting wars backed up with Strategies.”

“Sanjay, I reckon the emphasis of strategies and rules during the war. We had complete military and artillery education imparted to our prince. Our soldiers attacked in intricately planned formations such as *Chakra-vyuha* (formation of concentric circles in layers), *Shakata-vyuha* (formation of a cart wheel), *Mandala-vyuha* (astrological formation), *Urmi-vuyha* (formation resembling ocean’s waves), *Sarvatobhadra-vyuha* (square array defensive formation), *Garuda-vyuha* (Garuda – The Mighty Bird formation), *Vajra-vyuha* (Thunderbolt shape formation) and many others. We also had rules, such as a warrior needs to be challenged and warned before any duel. No more than one warrior may attack a single warrior...” Maharaja Dhritarashtra paused.

“Maharaj,” Sanjay’s voice had touched the node of seriousness, “Even your tongue carries the burden of the evil carried out by your kin. They broke not only rules but also incorporated great sin when they all brutally lynched your tender aged, alone, defenseless, grievously injured grandchild, Abhimanyu. Maharaj, I request with all regards that do not gloat about your rules. And as far as Kalyuga is concerned, we both know it is tainted so let us take caution in examining their consideration for the Rules. The modern democratic world has Model Code of Conduct published by Election Commission of India, Law defined in the Books and Orders passed by the Courts. Maharaj, I would like to stress upon the guidelines issued by ECI on Model Code of Conduct as follows.”

Summary of Model Code of Conduct (MCC)

The MCC is a set of guidelines issued by the Election Commission (EC) to control political parties and candidates prior to elections, for holding free and fair elections. Article 324 of the Constitution gives the Election Commission of India the power to control elections to the Parliament, State Legislatures, President and Vice-president of India. The MCC is operative from the date that the election schedule is announced till the date of announcement of results.

MCC was first introduced in the state assembly elections of Kerala in the year 1960, which was a bare set of instructions to political parties concerning election meetings, speeches, slogans, etc. However, in the 1962 general elections, MCC was distributed to renowned parties and state governments had sought view from the parties. In 2013, the Supreme Court directed the Election Commission to include guidelines regarding election manifestos, which it had included in the MCC for the 2014 general elections.

The MCC contains provisions dealing with general conduct during the election, election meetings, processions, polling day, polling booths, observers, party in power and election manifestos. For example, Parties must apprise the local

police authorities of the time and venue of any meeting in time to facilitate the police to make adequate security measures. Taking of prior permission for processions or demonstrations to avoid conflict on the route between two different groups to safeguard against clash and to maintain law and order situation in the area. Carrying and burning effigies signifying members of other political parties is also not permissible under MCC. On polling day, all authorized party workers on polling booths should wear identity badges, without the party name, symbol or name of the candidate. Only voters and persons with a valid pass from the Election Commission, are allowed to enter polling booths. The Election Commission appoints persons to whom any candidates may report problems concerning the conduct of the election. Since 1979, MCC bears restrictions in the conduct of the party in power. Ministers must not join official visits with election work or use official machinery during the election. The party or candidates must not carry advertising at the cost of the public money and consume official mass media for election publicity on achievements. Ministers and other authorities must not promise or grant financial grants, or promise any provision of drinking water, construction of roads, etc. Other parties must be permitted to use public spaces and rest houses, and these should not be monopolized by the party in power. MCC prohibits parties from making such promises which may unduly influence the voters, and seeks that manifestos should also provide the means to achieve promises made in the election manifestoes.

On March 10, 2019, the Election Commission of India declared and notified the dates of General Elections-2019 that will happen in seven phases between April 12, 2019 to May 19, 2019. The counting of votes would take place on May 23, 2019 followed by declaration of results. The MCC for the same therefore has been issued in March 2019, which has come in force from March 10, 2019.

The number of fresh restrictions and guidelines by way of MCC as well as other guidelines in order to make the election free and fair. While there would be 10% paper trail of the votes cast, all the EVMs shall bear photo ballot labels. One polling booth in each assembly segment shall be under exclusive control of women. Electronic transmitted ballot facility is another first of 2019 election, which would facilitate service voters to cast their votes. Another very important feature would be that all the EVMs shall have GPS tracking along with flying squads.

Candidates are not only required to file income details for past 5 years in their poll affidavits, but also declare their offshore assets. Further, parties are required to advertise criminal antecedents of candidates in media.

In a first, social media firms such as Facebook, Twitter, Google etc. have been directed to remove content that violates the MCC within 3 hours from the time the poll panel notifies the violations occurring during the 48-hour silence period. EC has further directed all the candidates to provide complete details of their incomes and assets, pending criminal cases etc. along with their nomination form.

Further, in a first, to curb use of black money by candidates, EC has identified 112 constituencies and formed Multi Department Intelligence Committee

(MDIC) to keep check on the doles of cash, home appliances, liquor, drugs etc. in those constituencies to influence the voters. The major states covered under this are Andhra Pradesh, Karnataka, Tamil Nadu and Telangana.

The ECI previously had no effective redressal for the violations of MCC and ways to tackle it. The c-VIGIL app launched by ECI is expected to fill that vacuum. The app brings together citizens and the Commission's flying squads to tackle violations of the MCC. Thus, ushering in a new idea of participative democracy.

Steps to Lodge a Complaint on c-VIGIL:

Step 1

A citizen clicks a picture or records a 2-minute video.

The Photo/Video is uploaded on the app, along with an automated location mapping by the Geographic Information System.

After its successful submission, the citizen gets a Unique ID to track and receive follow-up updates on his mobile.

A citizen can report many incidents in this manner and will get a unique id for each report for follow-up updates.

The app user has the option of registering complaints anonymously through cVIGIL App. In that case, the mobile number and other profile details are not sent to the system. However, in case of anonymous complaints, the user will not be getting further status messages because system will not be capturing the phone details. Citizens, however, have the option of following up on such complaints in person from the concerned returning officer.

Step 2

Once the citizen has reported the complaint, the information beeps in the District Control Room from where it is assigned to a field unit. A field unit consists of flying squads, static surveillance team, reserve team etc. Each field unit will have a GIS-based mobile application called "cVIGIL Investigator," which allows the field unit to directly reach the location by following the GIS cues and navigation technology and take action.

Step 3

After a field unit has acted upon the complaint, the field report is sent by them online through the Investigator App to the concerned returning officer for decision and disposal.

If the incident is found correct, the information is sent to the National Grievance Portal of the Election Commission of India for further action and the vigilant citizen is informed about the status within 100 minutes.¹

1. Available at <https://cvigil.eci.gov.in/theme/about.html> (accessed on Mar., 2019).

cVIGIL Limitations

- cVIGIL application will be usable only within geographical boundary of states where elections are being held.
- The cVIGIL user will get 5 minutes to report an incident after having clicked a picture or a video. The app will not allow uploading of the pre-recorded images/ videos, neither would it allow users to save photos/videos clicked from this app into the phone gallery directly.
- To prevent misuse of the system and to avoid repetitive complaints from the same spot, the system forces time delay of 5 minutes between successive complaints by the same person.
- District Controller has the option of dropping duplicate, frivolous and unrelated cases even before the cases are assigned to the field unit.
- The cVIGIL application must be used for lodging MCC violation related cases only. District Controller could drop a cVIGIL complaint without any further recourse, in case personal grievances are registered through cVIGIL app or the digital attachment of a cVIGIL complaint is found to be unrelated to a MCC violation. Citizens are therefore, encouraged to use the ECI main website for lodging the complaints or call the National Contact Centre at 1800111950 or State Contact Centre at 1950.²

“Sanjay, I see that my Bharat-varsh’s Electioneering has matured, it has well defined codes of conduct for the Electoral combat that the political parties would undertake. I would like to emphasize on the fact that adherence of the rules is a complex matter. The humans at the war field, physically or tactfully combative, might momentarily give in to the provocations, compulsions, ill-intentions and commit violation. Sanjay, these political parties are full of skillful politicians as we have observed, hence this innocuous, governmental, administrative, faceless body established by Constitution of India, might be under extreme pressure, ineffectiveness, helplessness and backlog of concerns. It is not unforeseeable that there must be many hands pointing finger at the ECI for the committed lawlessness, immoral conduct and violations of rule. They pray that the citizens, media, administration, judiciary and government keep an objectivity of the ECI’s empowerment.”

“Maharaj, may your prayers sew the fabric of electioneering and institutionalize the democracy deeper into the heart of Indians. We have already seen the use of Big Data which has become an intrinsic input for the parties to strategize and win this elaborative, complex, phased, divergent Star War! Let us examine the top level crude, aggressive and meticulous strategies adopted for running the Election Campaign.”

2. Available at <https://cvigil.eci.gov.in/theme/about.html> (accessed on Mar., 2019).

“Maharaj, during the Delhi state elections, a newly emerged Aam Aadmi Party swept the votes with their out of the box approach to campaigning. AAP used their funds in meticulously planned manner at every step of their way. Using a brilliant marketing team, AAP ran many creative campaigns such as putting up posters in Delhi autos and getting auto drivers to hand out questionnaires to get voter feedback on policies and issues, handing out visiting cards with a message in the Delhi metros and ‘Gully Prabhari’ where they appointed one person in charge of a street who does campaigning in that area. They took measures to learn consumer pain points and modified their campaign manifesto. This helped AAP understand their voters’ issues and keep their message focused on their voters’ needs.”

“Maharaj, at the end, this is no different than our times because the Throne or the so called ‘Chair’ is what the electoral combat revolved around. Let’s understand this *Kissa Kursi Ka*”

Candidate Selection

Candidate Selection is a mammoth task and involves many factors like winnability, political influence, loyalty, respect for electoral protocol etc. Winnability of a candidate centers around caste, social connect, social impact and influence in society. Political Influence is measured from the way a candidate may influence other candidates’ elections in adjacent constituencies. Loyalty and respect for protocol are criteria kept in mind by the political masters in order to achieve discipline and decorum of the party. In most of the cases, the monetary status of a candidate remains vital too. Post selection, a different cog wheel springs in action which looks at the factors which can make you win the constituency; it is here that the branding and promotions work. Once you have decided the candidates, the juggernaut starts, and the grass-root level workers begin their tirades. Any Party cannot win all the seats so there are certain seats where a party comes up with Parachutes Candidates who have been awarded seats because, the party had no expectation of reaping much rewards in those constituencies. These Parachutes gain because of their loyalty and integrity for the party and those at the helm. Assets and Liabilities are also an important factor which swing in favor of certain candidates begging a ticket. The Karyakartas at the bottom of the hierarchy cannot see their leaders weak and thus, at times when the popular wave does not suit them, they silently tilt toward the ones with a chance to avoid their leaders bowing down because of coalition politics. A few candidates defy such odds and carve their own niche, like Nadeem Javed who had contested from Jaunpur, a constituency which is majorly Brahmin dominated due to his appeal and the same goes for Giridhari Lal Bhargav, a six times MP from Jaipur who defied the caste calculations of Rajasthan and won the seats for six times due to his social connect with people; another prime example could be Harish Chandra Dwivedi, MP from Basti. Last but not the least, the Old Colonel has a last fight left with him and it here that we come across quota seats which means the seats have been assigned to people close to stalwarts of the party who command a huge following and respect among the voters.

Pre-poll Coalition

The move toward a genuine multi-party system effected from the 1990s, the decentralization of electoral politics with the rise of regional politics and the awakening of the electorate can be interpreted as the denouement of India's political and electoral development over the past few decades. The weakening of Congress provided a political space for other parties to enter the electoral arena and have a genuine shot at influencing the formation of a government. At this stage, an important caveat is in order. The weakening of Congress does not mean Congress is out of the electoral picture. The weakening of Congress should be viewed in the context of Congress' historical domination of electoral politics in India since 1947 till 1984.

The NDA has thirty-five member parties out of which BJP is the only national party. Thirteen NDA members (Shiv Sena, Shiromani Akali Dal, All India N.R. Congress, Naga People's Front, Lok Janshakti Party, Rashtriya Lok Samta Party, Desiya Murpokku Dravida Kazhagam, Maharashtrawadi Gomantak Party, All Jharkhand Students Union, National People's Party, and Pattali Makkal Katchi) have been granted 'State Party' status by the Election Commission of India.

Sanjay, this is quite consuming, tedious, cumbersome, complicated, chaotic, tactful, manipulative, patronizing activity of planning and strategizing for acquiring the votes for the chair.

“Yes Maharaj, sometimes the political parties plan four to five years ahead on their strategies to win the electoral battle. Here is some news flash³ of the planning of two national political parties. Mind it Maharaj, these are only the bullet points disclosed as public information. This may be just tip of iceberg in comparison of the actual mammoth hurricane planned and budgeted for.”

Modi planning for 2014 Elections

Modi's team faced three main challenges when it set out to project him as the

- The three-time Gujarat chief minister was a regional brand trying to go national.
- The 63-year-old was seeking to connect with the youth considering that this year's election had almost 150 million first-time voters. Modi, who rarely chooses to speak in English, was trying also to connect with the urban, middle-class audience that is becoming more politically conscious.
- Finally, and most importantly, he carried the taint of the 2002 anti-Muslim riots in Gujarat.

3. <https://www.businesstoday.in/magazine/case-study/case-study-strategy-tactics-behind-creation-of-brand-narendra-modi/story/206321.html> (accessed Feb, 2019).

Modi, the most successful in making a mark on the national scene in recent times, was successful in shifting Tata Motors' factory for the Nano minicar from West Bengal to Gujarat in 2008. At a time, when the farmers in West Bengal, backed by firebrand politician Mamata Banerjee had been protesting land acquisition for the plant by Tata Motors, Modi provided the company land and other incentives almost overnight. In the process, he also established himself as a champion for industry and development. Modi was known outside Gujarat even before he decided to move beyond the state, just as Nitish Kumar and late J. Jayalalithaa, then Chief Ministers of Bihar and Tamil Nadu.

He attended more than 5,000 events and 470 political rallies across the length and breadth of the country. He showed the people that he really works 18 hour a day for betterment of the country and sleeps only for 4 hours. He also hinted at the poor leadership quality of Congress. On February 6, 2013, more than six months before he was named as the BJP's choice for the prime minister's post, Modi addressed students at Delhi's Shri Ram College of Commerce. He talked about Gujarat's model of development. He spoke passionately about the need for speed in government decision-making and about the need to improve skills of the youth to accelerate economic growth. That speech won him many young admirers.

Modi, an excellent orator, has delivered scores of similar speeches since then. He highlighted slowing economic growth, high inflation and lack of new jobs—issues which immediately resonate with young and urban voters—while blaming the Congress-led United Progressive Alliance government for the problems.

After the elections were announced, his marketing team bombarded voters with print, television and radio advertisements with the same themes. It reached voters through text messages and Modi's recorded voice seeking votes for himself. It also tapped into social media platforms such as Facebook, YouTube and Twitter—Modi has about four million Twitter followers—to magnify the impact of the advertising and branding campaign.

The carefully crafted moniker also appeals to the traditional Hindus—the BJP's main vote bank—because of its religious connotation, as the Sanskrit word *Namo* is used as a salutation reserved for the Hindu gods.

The biggest challenge Brand Modi faced was diverting public attention away from the 2002 communal riots in Gujarat that claimed the lives of more than 1,000 people, mostly Muslims. Initially, Modi's supporters in BJP attempted to engage in public debate and highlight the clean chit given by courts to wash off the stigma. Then, they changed tack. They toned down the Hindutva rhetoric and focused instead on Modi's more recent past and his development record in Gujarat.

The weakness of the Congress leadership also helped boost Brand Modi. When the brands in the domain appear worse, the contending brand might shines by comparison.

Modi tried to highlight that scams and corruption done by UPA government and indecisiveness from the side of leader led to downfall of Congress and common

people wanted some change in the government and started using hashtags as “Ab ki baar Modi Sarkar.”

“I Support NarendraModi” (ISN) was an Indian social advocacy group supporting Narendra Modi as Prime Minister of India. The movement was founded by members Vikas Pandey, Vinod Rai, Hitesh Rangra, Devang Dave, Bijesh Dwiwedy, Hardik Upadhyay, Shailesh Jha and Vikki Giridhar. ISN used social media tools to mobilize young people during the election and supported initiatives such as blood donation camps and political activism.

The I Support NarendraModi (ISN) Facebook fan page was listed among the top 5 pages in the world in the Political category, with 1 crore followers. The success of “Chai Pe Charcha” was largely due to the ISN team.

Congress planning for 2019 election

- Congress decided to portray Rafale deal and bank frauds as corruption cases against Modi government.
- Congress decided to scale up its campaign on the Rafale deal and multi-crore bank frauds in an attempt to portray them as “cases of corruption” against the Modi government and its failures on the economic front. The Congress Working Committee (CWC), in the second meeting of the party’s highest decision-making body formulated an aggressive strategy on Assam’s National Register of Citizens (NRC) by claiming that the Tarun Gogoi government in Assam had completed 80% of the NRC work before losing power to the BJP two years ago, and that the “UPA (United Progressive Alliance) had deported 82,728 illegal Bangladeshis between 2005 and 2013”.
- The party announced that Congress workers would help “every Indian citizen” left out from the draft NRC.
- Congress communication chief Randeep Singh Surjewala, briefing the media, alleged that neither the Prime Minister nor the Defence Minister was disclosing the price of the jets purchased by this government since the NDA government had paid more than three times the ₹526 crore an aircraft fixed by the UPA regime.
- The escape of Mehul Choksi, Punjab National Bank (PNB) scam accused, figured in the meeting, especially the assertion made by Antiguan authorities that Indian agencies had no adverse information against the fugitive businessman when it did a background check. “On 20-7-2016, an affidavit was filed before Gujarat HC alleging that Mehul Choksi was in debt of Rs 9872 crore and he may flee the country. How did the Gujarat government (BJP) allow him to leave the country in January 2018? How did the Union government and the Gujarat government allow Mehul Choksi to leave the country in 2018 when he was under police investigation since 2016,” asked Mr. Chidambaram in a couple of tweets.

- In stepping up its campaign, the Congress decided to not only highlight “the issue of corruption” inside and outside Parliament but also have joint Opposition programmes. Mr. Surjewala said the party would launch a Jan Andolan (public campaign).

“Sanjay, this looks humongous.” Maharaja felt anxious at the mammoth effort planned by the political parties to come to power, inferring the significance of the powerful position.

“Yes Maharaj, theoretically, it’s just too unbecoming to incur so much for a democratic public post to serve the countrymen. But since the idea is not to serve but to exploit, this plan is an investment to acquire that position of advantage that all the business of oneself and one’s allies can be conducted with greater dynamics.”

“Then, we must admit to ourselves, Sanjay, that somewhere they, with the power of unscrupulous wealth, are successful beyond the power of Gods.”

Sanjay smirked. “Maharaj, a royal such as you, who was raised as a prince and was imparted with the wisdom of Manusmrities, Vedas and Puranas, who later on, underwent the painful experience of witnessing the destruction of all his clan and reestablished enlightenment bond with the Lord Krishna; such a veteran as you, cannot mistake to over-judge politicians. Maharaj, if you had not retaliated out of your subjugation, there is nothing greater and more cherished experience for me than serving your lotus feet. Let me remind you what Krishna said.”

श्रीभगवानुवाच |
कालोऽस्मि लोकक्षयकृत्प्रवृद्धो
लोकान्समाहर्तुमिह प्रवृत्तः |
ऋतेऽपि त्वां न भविष्यन्ति सर्वे
येऽवस्थिताः प्रत्यनीकेषु योधाः || 32||

śhrī-bhagavānuvācha
kālo’smiloka-kṣhaya-kṛitpravṛiddho
lokānsamāhartumihapravṛittah
ṛite’pi tvāmnabhaviṣhyantisarve
ye ’vasthitāhpratyaniṅkeṣhuyodhāh

—Chapter 11, Text 32, Shrimad Bhagavad Gita

Meaning:

The Supreme Lord said: I am mighty Time, the source of destruction that comes forth to annihilate the worlds. Even without your participation, the warriors arrayed in the opposing army shall cease to exist.

“Maharaj, every ruling party, every government, every institution of the world, sooner or later, is devoured by Time. Then who are these Charlatans, the manipulators, the power-hungry, the sinisterly rulers, they topple much sooner. Their

cover ups gets blown, internal crackdowns become public, past scandals get publicized, disassociations weaken their base, enemies get stronger, the circulation of money changes its path and probably the curse of the afflicted people goes against them. They deserve and write their own fall, even if there is no rival. The shallow carcass of such parties may succumb just on a cue of attack from the opponent. Maharaj, political parties' fallibility in election is inevitable in this Kaliyugi world. Here are some facts."

Some of the reasons why Congress was thrown out of power in 2014:

1. Complete Distrust for Congress in People: The last 5 years of UPA was full of corruption case one after another for e.g.: 2G case, Commonwealth Games case, Coalgate scam and that was the tipping point of people and sky touched inflation. The leadership then held no accountability toward the public issues and sentiments.⁴
2. Anna Hazare and AAP galvanized the mass: India against Corruption the movement itself broke many bearers in society and mobilized the masses to demonstrate their frustration against the current Government.
3. Utopian "Gujarat Model" Tactic: It was successfully portrayed by the BJP; it projected the Gujarat model as a cure-all of all problems in India. Some even projected that if Gujarat is so progressive then if Modi becomes the PM, India will be like America. Media played a big role in propagating this notion. Modi and company really were able to dissuade/ transition people from honest and corruption free governance to development of country through Gujarat model.⁵
4. Modi as Messiah: "Har Har Modi" slogan eventually put Modi equivalent to any Hindu God. People across the country voted for Modi not for BJP, thinking that he was fighting on each of those 545 seats.
5. Amit Shah in UP: Amit shah played a pivotal role for a very good performance of BJP across the Hindi belt in UP.
6. Incompetency of leadership on the other side of the camp: It was soon Modi vs. who? People were reluctant to vote for Rahul Gandhi as they had different views on him and just got tired of Congress and their Dynastic rule.

"Now we are in 2019, the very same time where the incumbent government is the NDA government and the onus of proof to bring it down is on the Opposition. Here are the weak points of the incumbent Government:"

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4. Election Results 2014: 5 factors that helped BJP and Narendra Modi win the election, <https://www.ndtv.com/cheat-sheet/election-results-2014-5-factors-that-helped-bjp-and-narendra-modi-win-the-election-562309> (accessed Mar, 2019).
 5. Jason Burke, Narendra Modi and BJP sweep to power in Indian election, <https://www.theguardian.com/world/2014/may/16/narendra-modi-bjp-sweep-power-indian-elections> (accessed Mar, 2019)

Administration Failure

1. **Demonetization:** This would be at the top of anyone's list, so not only the opposition in India, but organizations such as IMF and the World Bank think otherwise of this self-proclaimed success that the Government boasts about, which was a complete failure, and the widespread havoc that it created in the country and its economy. Therefore, the opposition party made the most of it and hammered the gist of its failure into the minds of public where at one point people thought that it is necessary for India's economy to grow. The opposition even in Rajya Sabha where the ex-Prime Minister Dr. Manmohan Singh, criticized the government that the poor implementation of Demonetization could bring down the GDP by 2%,⁶ where he was right the GDP rate did come down by 2.2%. Where on the contrary, several other "self-proclaimed economists" like Dr. Anupam Kher, Dr. Paresh Rawal, Dr. Virat Kohli, Dr. Akshay Kumar, Dr. Amit Shah praised it. The famous *Demonetization case i.e. Vivek Narayan Sharma v. Union of India*⁷ (2016) is pending for hearing by a 5 Judges' Constitution Bench of Supreme Court of India, which would decide the legality of the demonetization and other related questions of constitutional and public importance. The Supreme Court has framed following questions:

"We have heard the learned counsel for the parties at some length. In our opinion, the following important questions fall for our consideration in this batch of petitions:

- I. Whether the notification dated 8th November 2016 is ultra vires Section 26(2) and Sections 7,17,23,24,29 and 42 of the Reserve Bank of India Act, 1934;
- II. Does the notification contravene the provisions of Article 300(A) of the Constitution;
- III. Assuming that the notification has been validly issued under the Reserve Bank of India Act, 1934 whether it is ultra vires Articles 14 and 19 of the Constitution;
- IV. Whether the limit on withdrawal of cash from the funds deposited in bank accounts has no basis in law and violates Articles 14,19 and 21;
- V. Whether the implementation of the impugned notification(s) suffers from procedural and/or substantive unreasonableness and thereby violates Articles 14 and 19 and, if so, to what effect?
- VI. In the event that Section 26(2) is held to permit demonetization, does it suffer from excessive delegation of legislative power thereby rendering it ultra vires the Constitution;

6. Dr. Manmohan Singh in his Rajya Sabha Speech. Dated November 24, 2016.

7. *Vivek Narayan Sharma v. Union of India*, (2017) 1 SCC 388.

- VII. What is the scope of judicial review in matters relating to fiscal and economic policy of the Government;
- VIII. Whether a petition by a political party on the issues raised is maintainable under Article 32; and Whether District Co-operative Banks have been discriminated against by excluding them from accepting deposits and exchanging demonetized notes.

Keeping in view the general public importance and the far reaching implications which the answers to the questions may have, we consider it proper to direct that the matters be placed before the larger Bench of five Judges for an authoritative pronouncement. The Registry shall accordingly place the papers before Hon'ble the Chief Justice for constituting an appropriate Bench.”

2. **GST implementation:** The tax regime was implemented in a hurry and harmed business. Complicated structure, multiple rates on different items, complex filing. It did cause harm to business. BJP's failure to acknowledge as much was perceived as extremely arrogant.⁸
3. **Rafale deal:** Perhaps a point where the opposition might have had a point to bring down the Government, claiming it as a scam and that it needs probe. The questions raised by the opposition were that the Prime Minister changed the terms of the deal to acquire fewer jets for three times the price without following the procedure. The opposition attacked Rafale Controversy because of a private party as an offset partner which lacks experience.
4. **Weakening of institutions:** The Judiciary which remains an independent institution, where for the first time four senior most judges held out a press conference that it was in danger. The CBI also had some internal issues within the department itself, where the opposition in parliament said that such institutions have their own credibility and this government has done enough to sabotage their reputation and credibility.
5. **Aadhar and the failed attempt to deny citizens a fundamental right to privacy:** This Government for months has argued before the Supreme Court against the citizens having a fundamental right to privacy. In a constitution bench judgment, the Supreme Court upheld right to privacy, denting government's strong stand.

Manifesto Failures Alleged by Opposition Parties

1. **The betrayal of farmers:** Well which government has really been serious for them? Nevertheless, this phrase is used by almost all the parties in the opposition whether it is General Elections or the State Assembly elections. The opposition has claimed that the suicide of farmers is on all time high during Modi's regime or has risen sharply. In its final budget the BJP on the

8. Salman Khurshid, 10 failures of Modi Govt. www.wire.in (accessed Mar., 2019).

demand of minimum support price plus 50% gave its own version which didn't satisfy anyone. The opposition also pointed out that the Modi government imported wheat and pulses without thought. Also adding fuel to fire, the opposition made a huge hue and cry about the amendment of the new Land acquisition Act, 2013; to forcibly acquire the land of the farmers. Thrice the farmers have marched to Delhi and met the opposition party leaders as well.

2. **The mishandling of Kashmir:** The opposition said that this government deserves the credit for alienating the Kashmiri people from India. Never before in Kashmir, attacks of such magnitude have been carried out on the armed forces on a daily basis. Opposition has alleged that its worst till date and there has been a marked increase (72%) in the number of soldiers martyred since 2014.
3. **Jobs:** Last but not the least the one point where not only the opposition but also other institutions have criticized this government on the creation of jobs and why the economy is hitting an all time low. Opposition has alleged that the creation of jobs is only on the paper not in real because whenever they have to make it appear to the public that everything is fine, they just create their own data and float it through the news channels owned by them. In 2013, Modi promised that if you give vote to BJP, he will provide with 1 crore jobs. In last 5 years the job creation is at an all time low. Only 1 lakh jobs were created in 2015, followed by 2 lakh jobs in 2016. Additionally, the opposition has also said that in IT sectors the news of job cuts is de facto; this is only going to create more problems as people will lose more jobs; these jobs weren't even created hence losing more of them isn't a good indication. The opposition has criticized the Government's implemented scheme and calling it a failure. One has a point of view here, for example there is a half glass of water, you can see its negatives and positives but great are those who see an empty glass as a full one. R. Jagannath a BJP-leaning Journalist is certainly one of those greats who has said that, more unemployment rate means more people are looking for a work. Nevertheless, what can anyone expect from a Prime Minister claiming that one is an employed person even if he is selling a Pakora.⁹

Hence, pondering upon the temporariness of every entity, both Maharaja and Sanjay observed silence for all those in their memory who appeared and faded in time. Nothing is more powerful than Time.

9. <https://economictimes.indiatimes.com/> (accessed Mar, 2019).

CHAPTER 12

THE MUSIC OF POLLS

Those who do not Vote, do not matter!

Maharaja Dhritarashtra and Sanjay kept their eyes closed to station their minds on Lord Krishna. It was just yesterday, when in the battlefield of Kurukshetra, observing and foreseeing the probable slaughtering of his own relatives, family, friends and acquaintances, Arjuna had given up his weapon, sank in his chariot and discarded on such a meaningless war. Krishna, who rode his chariot, guided him not to abstain from his social duty to fight. He had said to him,

अथ चेतत्वमिमं धर्म्य संग्रामं न करिष्यसि ।
ततः स्वधर्म कीर्तिं च हित्वा पापमवाप्स्यसि ॥ 33॥

atha chet tvam imam dharmyam saṅgrāmaṁ na kariṣhyasi
tataḥ sva-dharmaṁ kīrtiṁ cha hitvā pāpam avāpsyasi

—Chapter 2, Text 33, Krishna to Arjuna, Shrimad Bhagavad Gita

Meaning:

If, however, you refuse to fight this righteous war, abandoning your social duty and reputation, you will certainly incur sin.

“O Sanjay, I have internalized your intent to bring forward this *shloka* of Lord Krishna. I know, it is definitely the plight of voter, just as the plight of our beloved Arjuna. And when, the voter is faced with the crises of having to choose among gangsters, dons, Bahubalis, illiterates or previous non-performing candidates, he must be condescended, discombobulated, rattled and agonized. His disinterest to cast vote is indisputably valid. It is an unfortunate dichotomy of the democracy, when the voter must vote but who could he have really voted for; utter meaningless duty. Sanjay, since you have reminded me the wisdom of the Lord, I reckon that every voter must vote.”

“Indeed Maharaj, that is the whole point, Lord Krishna’s wisdom isn’t superficial, it has deep connotations in every situation. One must not abandon one’s duty, whatever the circumstances may be. I would like to elaborate the association of the non-performance of one’s duty with one’s non-impactful existence. In this context, if the voters do not cast their vote and if this omission of duty continues then the clever political parties may identify their area as non-polling and ignore these non-voting people’s concerns, opinions, urgencies,

local development, long term development and even notional visits to their area. These non-voters may become non-existent for them. Hence, once must vote and comply with the duty of the land and sovereignty without fail. In a study conducted by few researchers, the poor people relate to Voting as their powerful Right. The poor of the country feel that they are given weightage by the political parties because they need their votes and Election being the day when they bathe and dress up better, because it's their day when they are given importance by the high-end people. 'If I *don't* vote, I *am* dead to the state,'¹ was the statement made by a rickshaw-puller (lower strata people). And besides that Maharaj, the option of NOTA (None of The Above) is also available. In Karnataka, 2018 assembly elections NOTA had more polls than six political parties.² There is no reason for an Indian citizen to not turn up for casting vote. Either self-interest or sense of duty, one must cast one's vote to become important to the Politicians and Government."

"Sanjay, what an empowering sense of participation in the Governance! Power may be small or big, if it's awarded as an absolute, undivided, clear Right, it mustn't be wasted. Would you Sanjay, allow me to pamper my heart with the notion of this justful democratic distribution of power among the people, or, you have the other side of the coin to disclose. Tell me Sanjay, what do you see?"

"Maharaj!" Sanjay smiled at the grasp of Maharaja about the Kalyugi-Elections, "There is a Voters List or the Electoral Rolls which contains the list of all the Voters of the country."

"And Sanjay..."

"Maharaj, one is entitled to cast the vote, if one's name is on the list! Imagine, on the day of election, when voters turn up for casting their votes, they aren't allowed to vote because their names are found deleted from the voter list! In the election of a state, not just one or two but over one lakh voters' names were found deleted. The case is under investigation. This may be on the behest of the political party who felt these voters wouldn't vote for them. This was the Telangana Voters List case; here is a small brief about it along with another D voter Assam Case."

Telangana Voters List Case

Recently, in Telangana assembly elections in December 2018 it was seen that lakhs of voters in the state, unable to cast their votes as their names were missing from the electoral rolls.

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1. <https://pdfs.semanticscholar.org/be1e/f2de903a7dad846a8a4da0a1b9b4bdb16559.pdf> (accessed Mar, 2019)
 2. <https://www.bloombergquint.com/karnataka-2018/karnataka-verdict-nota-polls-more-votes-than-six-parties> (accessed Mar, 2019)

Group of voters from across the state, complained that their names were deleted from the voter list, without giving any prior information to them. Meanwhile, Telangana's election body chief has also admitted that voters names were found missing from the voting list at many polling booths in the state and the chief just offered an apology to the voters for the same.

And in RTI query it was revealed that the Telangana Election Commission used Aadhaar to delete potential duplicate voters without any verification. The RTI also showed that there were serious discrepancies in the manner in which voter verification was done in 2015, that led to the voter name deletions.³

D-Voter Assam Case

Over 60,000 doubtful (D) voters and declared foreigners were suspected to have forged their addresses and age to get themselves included in the National Register of Citizens (NRC). During verification, it was found that names of more than 60,000 D-voters and declared foreigners (along with their spouses and parents) matched with that of applicants in other districts too.⁴

D-voters are those who have been disenfranchised during electoral roll revision for their alleged lack of proper citizenship credentials and their cases are pending with the tribunals. Declared foreigners are those who went underground after the tribunals pronounced them illegal migrants.

“Sanjay, the subterfuge to win the polls by Kalyugi politicians, is beyond any comprehension, mental calculation, apprehension, imagination or expectation. A blind king such as me can only express the dichotomy of my emotions. I no longer wish to comment on the frazzled, mutilated, ruptured and shredded moral fiber of the politicians, however, I must say, when intelligence is awarded to the unworthy, it is most unfortunate for the mankind.”

“Yes Maharaj,” Sanjay joined his palms, “here are more details, if you wish to dig deep into the issues.”

Voter List – Inaccuracy and Fraud

Under the provisions of the Constitution of India, the Election Commission has an affirmative responsibility to prepare the electoral rolls. The Election Commission initiated the system of voter ID also called the Electors Photo Identity Card (EPIC). It is an identification proof which is issued to all the citizens who are eligible to cast a vote. With this ID you can cast a vote in the municipal, state and national elections.

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3. <https://www.thenewsminute.com/article/lakhs-voter-names-deleted-telangana-list-without-any-verification-rti-reveals-97327> (accessed Mar, 2019)
 4. <https://www.telegraphindia.com/states/north-east/60000-nrc-fraud-cases-suspected/cid/1426103> (accessed Mar, 2019)

In one instance, a voter with the name “Rangarao Galanki” with “husband/ father’s name” column filled-in as “Amulu” has been duplicated by including the same names in capital letters under a different voter ID in the same constituency.

If a citizen moves from one location to the other and on shifting to a new place he gets a new voter card issued without deleting his name from the former place. So, in this situation, he has 2 voter cards with 2 different addresses printed on it. As a result, if he wants he can cast 2 votes from 2 different constituencies.⁵

In 2018, in Madhya Pradesh’s Kolaras assembly constituency, the voter list included 5,000 names of voters who were deceased. The names which were to be deleted were still present either due to negligence or corruption. So, by fraudulent means, anyone could cast a vote on behalf of the dead voters as their names are still a part of the voter list.

“The Bharatiya Janata Party’s (BJP) success in the recent assembly elections in Uttar Pradesh (UP) has made its campaign strategies the subject of several dissections. One of its political strategies was to refrain altogether from appealing to the Muslim electorate, which has historically been important to political fortunes in the state. Arguably, such a strategy of marginalizing the community undermines the Muslim citizen’s status as a voter with a significant stake (14.3 %) in our democracy. Indeed, the party’s thumping majority has some convinced that Muslims can no longer rely on traditional electoral politics to protect their interests.”

Extending this line of argument, Abusaleh Shariff and Khalid Saifullah have found that nearly one quarter of Muslim adults in Karnataka were out of the electoral rolls, based on electoral data from the Karnataka Chief Electoral Officer’s website and the single-person household estimates from the Centre for Research and Debates in Development Policy, New Delhi.⁶

“Maharaj, despite being hardcore rightwing political party, BJP has really penetrated the houses of Minority community by appeasing their women with the Triple Talaq Bill terming it illegal and punishable. BJP has also supported cases filed by Muslim Women before Supreme Court of India on the burning issues of Polygamy and Halala raised by Muslim Women from across India. However, on the issue of punishment on Triple Talaq the opposition and various sections of Minorities have raised high objections and provided evidence that even Muslim women don’t want punishment but social security.”

“Maharaj, in rural areas, electoral rolls are almost clean’ as this was found in several studies of electoral rolls conducted at national level and the main reason is everyone knows everyone in villages. And rural people ensure that they have proper voter IDs because financial benefits are tied to it like pensions, social

5. <http://wtdnews.com/voter-id-fraud-whodunit/> (accessed Mar, 2019)

6. <https://www.epw.in/engage/article/how-does-india-vote-short-reading-list> (accessed Mar, 2019).

schemes etc. Also, another financial advantage is the cash distribution that happens during elections too. But, the problem lies in the urban areas where people move from one house to another⁷”

“The Constitution of India recognizes right of every citizen to vote. The statutory provisions are contained under the Representation of the People Act, 1950 and the Representation of the People Act, 1951 and rules include the Conduct of Elections Rules, 1961 and Registration of Electors Rules, 1960. Section 62 of the Representation of the People Act, 1951 recognizes ‘Right to vote’ and states that no person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.”

“In *Bashir Adamji Adat v. State of Gujarat and Ors.*⁸ (GHC, 2007), the Division Bench of Gujarat High Court while analyzing the issue of deletion of 597 names from the list of voters found that no notices were issued to any of them and thus the deletion would be illegal being in violation of Section 22 of RP Act, 1950, and authorities were directed to hold elections on basis of list of Voters published prior to the deletion.”

“Then Maharaj, there is another hugely burning issue pertaining to the National Register of Citizens (NRC), which is a register containing names of all genuine Indian citizens residing in Assam. After 1951, the update process of NRC started in 2013, under the strict monitoring of Supreme Court. First NRC was prepared in 1951, in respect of each village showing the houses or holdings in a serial order and in respect of each individual, the father’s name/mother’s name or husband’s name, nationality, sex, age, marital status, educational qualification, means of livelihood or occupation and visible identification mark. This NRC was prepared under a directive from the Ministry of Home Affairs (MHA).”

“The major statutes governing NRC updation in Assam are The Citizenship Act, 1955, and The Citizenship (Registration of Citizens and Issue of National Identity cards) Rules, 2003. The modalities for NRC updation have been developed jointly by the Government of Assam and the Government of India in adherence to these statutes. As such, eligibility for inclusion in updated NRC shall be determined based on the NRC, 1951, Electoral Rolls up to the midnight of March 24, 1971 and in their absence the list of admissible documents issued up to midnight of March 24, 1971.”

“The constitutionality of Section 6A of the Citizenship Act 1955 was challenged in 2012 by way of a writ petition namely, *Assam Sanmilita Mahasangha*

7. <https://www.news18.com/news/india/the-curious-case-of-voter-fraud-and-duplicate-voters-in-andhra-pradesh-2055237.html> (accessed Mar, 2019)

8. *Bashir Adamji Adat v. State Of Gujarat and Ors.*, AIR 2007 Guj 161.

& Ors. v. Union of India & Ors.⁹, under Article 32 in the Supreme Court. In fact, a group of petitions were filed by people claiming to be ‘original inhabitants’ of Assam challenging the provisions of Paragraph 3 (3) of the Schedule to Rule 4A of the Citizenship Rules 2003 challenging the cutoff date of March 24, 1971. The case is pending before Supreme Court of India.”

“Maharaj, despite the discrepancies and some fraud here and there, statistically the voter turnout was reported to be 66.4%¹⁰ in 2014 Lok Sabha elections, which is highest in the history of independent and democratic India. Predominantly, higher turnout denotes the toppling of the incumbent political party which was also the case in 2014. Now Maharaj, I want to also tell you what all I see as the canvassing methods adopted by political parties.”

“Sanjay, canvassing seems like a legitimate method of forming conviction in the voters’ minds. Please elaborate, what means and ways do they adopt, as this is a freshly produced conception of modern democratic world. Dynasts like us, never had to canvas, we had to attack with our soldiers to retain or increment our boundaries.”

“Maharaj, here, the foot soldiers have metamorphosed into foot workers called the Karyakartas, they are important factors of door to door canvassing. Their weapons are public relations, networking, appeasements, tactics and convincing power. The other important way is same as our times, addressing the masses with the galvanizing speech by conducting rallies.

In a nutshell, let me give you an overall collective brief of all methods here.”

Methods of Canvassing Adopted by Parties

Campaign strategies of Indian political parties have moved away from traditional method to modern methods and social media is playing big role in the same. During campaigns, parties actively try to capture the narrative and build a sentiment among voters that they hold the winning momentum. It was also analyzed by many political experts that last leg of campaigning is crucial in Indian elections too.

(i) Door to Door Campaign through Karyakartas

The 2014 General election was backed up by deep research done by the BJP over the span of 3 to 4 years by door to door campaign as they got voter feedback and addressed voter concerns and issues in real time.¹¹

9. *Assam Sanmilita Mahasangha & Ors. v. Union of India & Ors*, WRIT PETITION (CIVIL) NO. 562 OF 2012 (Supreme Court).

10. <https://timesofindia.indiatimes.com/news/Highest-ever-voter-turnout-recorded-in-2014-polls-govt-spending-doubled-since-2009/articleshow/35033135.cms> (accessed Mar, 2019)

11. <https://callhub.io/changing-face-political-campaigning-strategies-india/> (accessed Mar, 2019)

As door to door campaign involves direct interaction with voters. It has been the conventional mode of election campaign since the ages. It includes meeting voters personally, listening to their problems, addressing the meetings, giving speech, promoting the candidate through campaign materials. The campaign material of election campaign may range from badges to wrist bands to T-shirts etc. and other doles.¹²

Elections could not happen without the hundreds of thousands of people who give up their time to staff polling stations and ensure votes are issued, cast and counted. These poll workers are a crucial resource for electoral democracy and many countries experience problems recruiting sufficient numbers of poll workers. Some of the best volunteers around the country are young people, and obviously that includes college students, but that also includes high school students.

Rallies

Rallies of political parties are of many kinds, for example few use to do in a huge ground, few on road show along with their massive gathering of cars and bikes and many other ways. As the time of India's General Election - 2019 is too close, all the major political parties are trying to touch each constituency for luring their vote bank through rallies, demonstrations and public meetings.

It was also seen that many rallies were conducted few miles away from the urban areas and the reason for the same is very clear that they want to touch more and more vote banks from rural areas as the voters turnout is always higher in rural as compared to urban areas.

Digital or Web Campaign

The Obama campaign for US Presidential Election in 2008 became a proof of concept for Indian political campaigns. And also with the intrusion of cyber media in every part of the life, digital campaigning or web campaigning has become the latest fad in election campaign. This mode of election campaign provides wide and quick reach to the candidates and political parties. Voters also get to know about their candidates through the information on websites, blogs, Google and search engines' advertising and prioritization and others.

Social Media's Influence

Social media is playing a role nowadays, both positively and negatively. However, there is no regulatory control to put a stop on campaigning on social media, unlike in newspapers or TV, except the fact that recently on March 20, 2019, the Election Commission of India has informally directed the social media firms, like Facebook, Twitter, Google etc., to remove content violating the Model Code of Conduct within 3 hours from the time the poll panel notifies the violations occurring during the 48-hour silence period. In fact, social media firms have committed

12. <https://www.mapsofindia.com/election/election-campaign.html> (accessed Mar, 2019)

to comply with the Voluntary Code of Ethics for General Election 2019 agreed between the Election Commission of India and Internet and Mobile Association of India and Social Media Intermediaries, including Facebook, Google, Twitter, Whatsapp, Tiktok, Sharechat etc.

The 2014 Modi campaign heavily used social media data to target voters and market their candidates. The 18 month long campaign was backed up by meticulous research done over the span of 3 to 4 years. They got voter feedback and addressed voter concerns and issues in real time. It bridged the gap between the candidate and the average voter. With millions of people feeding them real time data, analytics saw to it that status updates on social media would reflect the opinions of voters. Modi used voice broadcasting to target mobile only voters. Understanding the voters' preferences also helped in placing ads where there is a higher chance of them being seen and clicked on. Modi's team carefully monitored social media conversations where BJP was being discussed and promptly responded to concerns voiced. With the advanced use of analytics the Modi campaign targeted 810 million voters, 543 constituencies across 1.13 million polling booths.¹³

Print Media and Television Media Campaign

Campaigning with the help of print and television media is one of the wide used sources of political campaigning. It mainly involves campaigning through newspapers in the form of party advertisement; journals etc. and TV to cover candidate interviews. The book has already covered the controversies around the usage of both the mediums.

Pamphlets and Posters and Bill Boards

Despite the widespread use of social media during the 2014 Indian election campaign, which mostly targeted India's growing urban middle class, posters and billboards still represent the most important form of political communication throughout India. Because sophisticated television and online campaigns are unlikely to reach the large segment of less educated voters in rural India, most politicians who campaign in state or local elections still favor this form of communication.

Negative Campaigning

This portion of negative campaigning is also covered already. Winning an election requires your candidate getting more votes than their closest competitor. There are two ways to achieve this: bring attention to the good things your candidate will do and bring attention to the bad things their competitor will do. Negative campaigning is a form of political promotion that focuses on convincing voters not to vote for your candidate's competitor. The most well-known form of negative campaign is the attack advertisement—ads that talk about a candidate's record of dodgy dealings, their questionable history or their political failures. While

13. Ibid.

negative campaigning might seem dirty and unsportsmanlike, it has a wide range of benefits. Since negative campaign is targeted toward those likely to vote for your competitor, it can sway these voters into changing their mind and shifting over to your candidate's side. Negative campaigning usually takes the form of television ads, newspaper columns, political debates and direct promotion. Although it can be incredibly effective when done right, negative promotion can be ineffective without the positive campaign to support it.

“Sanjay, I must declare that the environment of the election period seems extremely boisterous, distressing and exhausting. The noise from all directions, the clutter of posters and printed advertisements distorting the vision and silent screams of social media advertisements, Sanjay! Who could possibly meditate on the serious matter of candidate election?”

“Maharaj, whatever you perceive, for the candidates and political parties this noise is all musical. After all they spend so much on it. And for this reason of yours and citizens, Election Silence is observed for 48 hours prior the beginning of polling process, here is the detailed explanation for your perusal.”

Election Silence

The day of reflection or the election silence is a ban on political campaigning prior to an election, to give voters a peaceful condition to consider and make a final decision on their vote. During this period, which usually begins just before the voting day and ends after polling ends, no active campaigning by the candidates or political parties is allowed, and television or any digital media cannot carry any election matter.

Many countries operate a period of election silence when polls are open, preventing the holding of public meetings and/or publication of opinion and exit polls. In some countries the period starts shortly before the election: for example, it operates 24 hours beforehand in Singapore (called a “cooling off” day), Bulgaria, Slovenia, Hungary, Croatia, Russia, Albania, and Poland, and from 14:00 hours the day before in Ireland. In India, Section 126 of the Representation of People Act, 1951 mandates a period of 48 hours until the conclusion of the poll for election silence.¹⁴

Earlier this year, a panel of the Election Commission of India made a request to Facebook: block all political ads on your platform 48 hours before election polls, which has now culminated in the Voluntary Code of Ethics, as mentioned earlier.

The *Telegraph* report¹⁵ laid following:

In December 2017, when the Election Commission withdrew its notice to Rahul Gandhi against appearance in a TV interview less than 48 hours before Gujarat

14. <https://www.telegraphindia.com/opinion/the-need-to-revist-election-silence-rules> (accessed Mar, 2019)

15. Ibid.

elections, it asserted that “due to multi-fold expansion of digital and electronic media, the extant Model Code of Conduct ... requires revisiting to cater to the requirement and challenges of the present and emerging situations.” In January 2018, an EC panel was formed to look into this. The panel is yet to submit its report.

The Model Code of Conduct has been a pivot of election practices in the Indian democracy. Take for instance the recent controversy this week, about Vasundhara Raje’s announcement of free electricity to farmers in Rajasthan during the announcement of assembly poll dates, which allegedly goes against a model code of conduct provision prohibiting announcements that can be construed as inducement to voters after announcement of poll dates.

For a procedural code so sacred to a democratic process, there is a need to revisit the fundamental philosophy behind an important provision it contains: the concept of election silence.

Maharaj observed silence as he meditated to attain resilience, Sanjay tried to see the Polling Day of the country during its various phases and demographics.

“Maharaj, now let me elaborate on the final Election Day for which all this propaganda, preparation and music of promotion is made. The Karyakartas usually are on feet since the wee hours and visit door to door to bring out voters for polling. The political parties also try to keep their karyakartas in and around the booth, to keep an eye on the polling and also try to influence polling as an accepted but unadmitted way. Here is a brief Maharaj, of what all they do on the final day of polls.”

Election Day Planning and Execution:

Booth Handling:

The Karyakartas are not allowed to enter the booth but they are around the booths, usually in the rural areas, to ferry the voters and to assist them to cast their votes. In urban areas, the role of Karyakarta is not so personalized and it varies from area to area. Sometimes, the goons of the contesting candidates may also try to use force to influence the polling in their favor; this may also convert into booth capturing.

Booth capturing is a type of electoral fraud in which party loyalists “capture” a polling booth and vote in place of legitimate voters to ensure that their candidate wins. Though it is a kind of voter suppression, unlike other forms of voting fraud, booth-capturing is a malpractice witnessed mainly in India and the least subtle of all. There are many instances that the people do not come openly to vote. It is a general rule that agents of every contesting candidate will be present at the booth. But in many areas they are threatened or beaten; as a consequence they leave the polling premises. The new practice is also seen that the many goons of a political party are used to threaten the voters one or two weeks prior and they create an atmosphere of terror in those areas, so that the many voters do not come to vote. The first instance of booth capturing in India was recorded in the 1957 General

Elections in Rachiyahi (in Begusarai, Bihar). The word came into prominent use in the media during the late 1970s and 1980s when the number of parties and candidates multiplied.

Another recent case came from Ferozpur (Punjab) Panchayati Election in December, 2018, where a man was killed due to poll related violence and an entire ballot box was also burned.¹⁶

In 1989, the Representation of the People Act, 1951 was modified to include booth capturing as an offense punishable by law and countermanding or adjourning any poll that was booth captured under Section 135(A).

“Booth Capturing” is a wide term which includes all the following activities:

- a) Seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections.
- b) Taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting.
- c) Threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote.
- d) Seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes.
- e) Doing by any person in the service of Government, of all or any of the afore-said activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

The first case that came to Supreme Court of India with regard to booth capturing was *Basanagouda v. S.B. Amarkhed*¹⁷ (1992) where it was observed, “In the recent past there have been various complaints regarding booth capturing. The tendency to overawe the weaker section of the society and to physically take over the polling booths meant for them is on the increase. Booth capturing wholly negates the election process and subverts the democratic set-up which is the basic feature of our Constitution.”

Location of Polling Booth

Basically, election officials are responsible for determining the number of polling places, their location, hours of operation, and which precincts to assign to each location by having coordination with local municipal corporations.

16. http://timesofindia.indiatimes.com/articleshow/67313900.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed Mar, 2019)

17. *Basanagouda v. S.B. Amarkhed*, (1992) 2 SCC 612.

But sometimes it is observed that many political parties try to manipulate in choosing polling booth by officers according to their vote bank strategy, so that the voters, who may cast their vote in favor of such political parties, be prevented from having every kind of hindrances in order to provide ease to them to cast vote at nearest booth from their residence. Similarly, upon the perception that voters belonging to a particular sect might vote against them, they also try to move the location of the booth to some faraway place to cause inconvenience and discouragement of the voters.

Influencing Polling Booth Agents

Many times, in every level of election it has been seen that many political parties through their Karyakartas use influence over the polling booth agents to get vote bank towards the voters.

Recently, in Karnataka state assembly election a group of voters alleged that the polling staffs at Dasarahalli constituency near Bengaluru are trying to influence votes. According to reports, the polling booth agent pointed toward a particular political party and asked the voters to cast their vote to that party.¹⁸

Allegations and counter-allegations by the top contenders sparked a big debate in sixteenth Lok Sabha election, who is allowed inside a polling booth and who is not. In one incident, after a complaint was made by BJP's Smriti Irani for the presence of Preeti Sahay (political secretary of Priyanka Gandhi Vadra, Congress) inside the polling booth, she was asked to leave Amethi.¹⁹ As, Election Commission rules also stipulate that political functionaries and party workers, etc. who have been brought from outside the constituency and who are not voters of that constituency, are required to leave it as soon as campaigning ends. This does not include a candidate if he is a voter outside but is contesting in the constituency.

Sanctity of Polling Booth

Those who can enter the polling booth

- a) Electors.
- b) Polling Officers.
- c) Each candidate, his election agent and a duly appointed polling agent of each candidate, one at a time.
- d) Media persons authorized by the Commission.
- e) Public servants on duty in connection with the election.
- f) Observers appointed by the Commission.

18. <https://timesofindia.indiatimes.com/videos/news/karnataka-polls-polling-staff-trying-to-influence-vote-allege-voters/videoshow/64133823.cms?> (accessed Mar, 2019)

19. <https://www.ndtv.com/elections-news/elections-2014-faqs-on-who-can-be-inside-a-polling-booth-and-who-cant-560580> (accessed Mar, 2019)

- g) Micro observers, Videographers/ photographers/ staff for webcasting in the case of a critical/sensitive polling station.
- h) A child in arms of or accompanying an elector.
- i) A person accompanying a visually impaired or an infirm voter who cannot move without help.
- j) A person who might be admitted from time to time by the presiding officer for the purpose of identifying voters or otherwise assisting them in the poll process.

Those Who Can't Enter the Polling Booth

- a) Police officers, whether in uniform or in plain clothes, should not, as a general rule, be allowed to enter inside the polling booth, unless they are called in to maintain law and order or some similar purpose.
- b) Security personnel accompanying an elector or candidate or his election agent or polling agent should also not be allowed to enter the polling station except the security personnel for a Z+ protectee. In that case a single plain clothed security personnel with concealed arms is allowed.
- c) Ministers, State Ministers and Deputy Ministers of the Center or states. According to the latest instructions of the commission, they cannot be allowed to be appointed even as polling agents, as they have security guards who cannot be allowed entry into the polling station.
- e) Only three or four electors should be allowed to enter the polling station at a time, says the commission. No one inside the polling station should be allowed to influence or try to influence the voters by words or gestures to vote in a particular way.

“Sanjay!”

“Maharaj.”

“I would like to acknowledge the depth of ecstasy my being resonates with, by learning that the modern civilization has cultivated non-violent mechanisms to acquire the throne. When the souls with the royalty, ambition, gluttony, enticement of this throne acquire life on Earth, they would lust and lurk audaciously toward it. The fortunate establishment of democracy, has tactfully diverted their fire, yearning, eccentricity, fanaticism toward the sinful art of manipulation, deceit, duplicity, melodramatics, channelizing, organizing, diplomacy, equilibrium, composition, balanced extempore, patience, endurance and liberated impulses. Their wild spirits deserve this deep entanglement of democratic notions. During our era, such beings would rashly gather submissive meat of bodies for invasion and acquisition of the throne. The gory tales of slaughtering, manhandling, massacre, innocent bloodsheds, slayed royal clans were dauntingly unending. This progression of political scenario itself has made my belief stronger, that goodness blossoms behind the shady corridors of

Evil World. Lord Krishna indeed blesses the Kalyuga through all who conserve even iota of that goodness in their hearts.

Regardless of all what I have spoken about the democratic politicians, the truth is that they belong to this time and this time belongs to them. This civilization belongs to them and they belong to this civilization. They are merely the representation of Kalyugi Maya which is also derived from Lord Krishna. O Lord, merciful, make this process of Democracy, as peaceful, as equitable, as just, as precise as possible. I bless the Indian Democracy.”

Thereafter Maharaja Dhritarashtra recited the following shloka to revisit the appearance of the God and invite his blessings.

अनेकवक्त्रनयनमनेकाद्भुतदर्शनम् |
अनेकदिव्याभरणं दिव्यानेकोद्यतायुधम् || 10||
दिव्यमाल्याम्बरधरं दिव्यगन्धानुलेपनम् |
सर्वाश्चर्यमयं देवमनन्तं विश्वतोमुखम् || 11||

aneka-vaktra-nayanam anekādbhuta-darśhanam
aneka-divyābharaṇam divyānekodyatāyudham
divya-mālyāmbara-dharaṁ divya-gandhānulepanam
sarvāśhcharya-mayaṁ devam anantaṁ viśhvato-mukham

—Arjuna witnesses Lord Krishna’s cosmic form, Chapter 11,
Texts 10-11, Shrimad Bhagavad Gita

Meaning:

In that cosmic form, Arjuna saw unlimited faces and eyes, decorated with many celestial ornaments and wielding many kinds of divine weapons. He wore many garlands on his body and was anointed with many sweet-smelling heavenly fragrances. He revealed himself as the wonderful and infinite Lord whose face is everywhere.

Both Maharaj and Sanjay bowed their heads in reverence and offered prayers for the wellbeing of the people.

CHAPTER 13

GRIPPING THE CHAIRS

Coalition is the Concoction of Democracy!

“Maharaj, here is a newsflash.”

The **United Progressive Alliance (UPA)** is a coalition of center-left political parties in India formed after the 2004 general election. The largest member party of UPA is INC. Initially, UPA was given external support from the Left Front with a total of 59 MPs. Similar external support was also promised by several smaller parties that were not a member of any coalition, including the Samajwadi Party with 39 MPs, the All India Anna Dravida Munnetra Kazhagam with 4 MPs, the Janata Dal (Secular) with 3 MPs, and Bahujan Samaj Party with 19 MPs, who promised to support the government if it faced a vote of confidence. Nevertheless, these parties were not a part of the government. The UPA thus had at least 335 MPs out of 543 supporting it at the time of its formation.¹

“Sanjay, this ingenious, unpredictable and vacillating time spares no one. We just witnessed that enormous Election Industry and noise of Promotion, and still, as a valid possibility of democracy, all parties may dwindle to meager seats. This pious, colorless, transparent, fluid, strong, vigorous, dynamic democracy, like the River Ganga, has accepted all the nefarious, sinful, corrupt charlatans into her system giving them the opportunity to perform greater good and wash away their sins. It’s evident that this democracy innocently permits the political parties to form coalition to acquire the highest chair, the throne, or the ‘Kursi.’ Sanjay, I trust that you would intervene in my humble emotions by disclosing the shady Kalyugi deeds of these politicians and tarnish my harmony. Go on.”

“Maharaj,” Sanjay had a cunning smile, “I cannot disobey your mandate, would like to take you through Buta Singh’s case, where it was alleged, that he didn’t provide ample opportunity to the political parties to form coalition Government and suspended the Assembly, to call for fresh elections. Further, Maharaj, Karnataka Government case; the Governor of Karnataka, Vajubhai Vala invited B.S. Yeddyurappa to form the government and prove majority in 15 days, ignoring the Congress party. They slammed him of acting like a

1. <https://timesofindia.indiatimes.com/topic/unity-progressive-alliance> (accessed Mar, 2019)

‘BJP puppet.’ The Governor, Congress said, had allowed the saffron party to ‘manufacture’ a majority. Senior Congress leader and former Finance Minister P. Chidambaram alleged that the Governor has given Yeddyurappa time to “convert” the number of 104 legislators to 111.

Maharaj, here is the summary of cases you may analyze between the lines at your leisure.”

Rameshwar Prasad v. Union of India² (2006)

Elections conducted in Bihar in February 2005 also threw up a fractured mandate with no party reaching the magic majority figure. Results were out on February 27, 2005. Under such situation, then Bihar Governor Buta Singh had asked the President to impose President’s rule and thus, under Article 356 President’s rule had been imposed and the Assembly was kept in suspended animation. This was to be of a temporary nature. Later on a report of Governor Buta Singh expressed that there is likelihood of horse trading and large scale defections with the objective of gaining power. Further it was said that it would not be possible to contain the situation without giving the people another opportunity to give their mandate through a fresh poll. In another report the Governor Buta Singh reiterating the above view opined that it would be desirable in the interest of the State that the Assembly which had been kept in suspended animation be dissolved so that the electorate could be provided with one more opportunity to seek the mandate of the people at an appropriate time to be decided in due course and thus upon this report the Assembly was dissolved on May 23, 2005 and Bihar witnessed the imposition of President’s rule. National Democratic Alliance (NDA) had claimed the stake of forming the government after asserting that it had the support of 115 MLAs by mid-April in the 243-seat assembly. In the election, Janata Dal (United) had emerged as the single largest party with 88 seats. While BJP and RJD got 55 and 54 respectively, Congress bagged paltry 10 constituencies. The Supreme Court had rapped Bihar Governor Buta Singh for “malafide” role in government formation in 2005.

The Supreme Court held that proclamation of dissolving the Bihar State assembly was unconstitutional and the dissolution has been done in mala fide way which is illegal. However, since the process of re-election had already been put into motion and could not be reversed, the proclamation would not be withdrawn and the Assembly will remain suspended allowing for the election of a new Legislative Assembly.

The court also observed that the Governor of Bihar, Buta Singh did not give the political parties—NDA and JD (U)—a fair chance to join hands with other political parties and form a coalition at the State Level.

According to media sources, Mr. Nitish Kumar of the NDA had managed to gain sufficient seats by way of post-election alliances needed to obtain a simple

2. *Rameshwar Prasad v. Union of India*, (2006) 2 SCC 1 : AIR 2006 SC 980.

majority in the Assembly and was being projected as the probable Chief Minister of Bihar because of all the support he had managed to accumulate. The petitioners believed that Buta Singh had been acting on his prejudice, preventing the LJP elected representatives from making a decision for themselves regarding their political allegiances because he was against Mr. Nitish Kumar becoming the Chief Minister of Bihar.

The five Judge Constitution Bench of Supreme Court in Rameshwar Prasad case had held:

“165. If a political party with the support of other political party or other MLAs stakes claim to form a Government and satisfies the Governor about its majority to form a stable Government, the Governor cannot refuse formation of the Government and override the majority claim because of his subjective assessment that the majority was cobbled by illegal and unethical means. No such power has been vested with the Governor. Such a power would be against the democratic principles of majority rule. The Governor is not an autocratic political ombudsman. If such a power is vested in the Governor and/or the President, the consequences can be horrendous.”

A three Judge Bench in *Chandrakant Kavlekar v. Union of India*³ (2017) had upheld the action of the Governor in the context of the elections of the Goa Legislative Assembly. In the said case the Assembly comprised of 40 elected members. The Governor invited a post-poll alliance consisting of more than 21 members comprising of BJP and other parties. In the said elections the Congress Legislature party had secured 18 seats and was the single largest party. The action of the Governor in inviting the post poll alliance consisting of smaller parties including the BJP was questioned by the single largest party i.e., the Congress. This Hon’ble Court upheld the decision of the Governor by directing an expedited floor test.

The Governor exercises three kinds of powers:

- (a) Executive power taken in the name of the Governor;
- (b) Power exercised by her on the aid and advice of the Council of Ministers, headed by the Chief Minister; and
- (c) Power exercised by her in her sole discretion.

There is no scope to challenge a decision taken by the Governor in his discretion, one of the many such decisions being the appointment of a Chief Minister. De facto, there is an explicit bar against this, expressed in Articles 163(2) and 361, stipulating that the Governor shall not be answerable in any court of law for the exercise and performance of her powers and duties. Congress trained guns at Karnataka Governor Vajubhai Vala over his invitation to BJP to form the government.

3. *Chandrakant Kavlekar v. Union of India*, (2017) 3 SCC 758.

After *G. Parmeshawara v. Union of India & Ors*⁴ (2018) (Karnataka Assembly case on 2018) wherein Mr. Yeddyurappa of the BJP being sworn in as Chief Minister failed the floor test after being invited being the single largest party, contrary to Goa wherein post poll coalition was invited instead of single largest party, the Congress-JD(S) alliance won the floor test. However, this raised question of uniformity in Supreme Court's approach in Governor's contrary stands in inviting the political parties to form government.

“O Sanjay, these alliances have their roots traced back to even our times. All souls have karmic exchanges with each other and being the Rulers, our entanglements involve even our citizens. The fortitude of our side of 11 *akṣauhiṇī* army that was slaughtered in the epic war, all came from our allegiances. We allied with Karna of Anga, Dronacharya of Uttar Panchala, Jayadratha of Sindhu, Shakuni of Gandhara, Shalya of Madra, Narayani Sena of Yadavas of Dwarka, Bhagadatta of Pragjyotisha, Bahlika Kingdom and Burishrava, Sudakshina.

The offering of one *akṣauhiṇī* battalion from each of them was wasted in the sacramental historical extermination.”

And they both observed a moment of silence, for the departed lives.

“Maharaj here is the generic scenario elaboration”:

Post Election to Government Formation

After the election (i.e., the polling day), declaration of the result takes place and then submission of account relating to election expenses is submitted. The party with highest number of seat and having crossed half-way mark of the total number of seats has the natural claim to form the government. The President of India invites such a party for forming government.

Post-Poll Alliances: Now that contemporary politics and fragmented polity have become synonymous, post-poll alliances have emerged as a viable alternative. Apart from Lok Sabha elections, the post-poll alliances have become a trend at the state level as well.

Coalition Government: After NDA government became the first successful coalition government in India which completed the whole 5-year term (1999–2004), the situation turned volatile for the successive coalition government. The UPA government had to rely on the external support of Left Front, Samajwadi Party and Bahujan Samaj Party to ensure that it enjoyed the confidence of the Indian Parliament. The major setback for UPA-I was the withdrawal of support by the Left Front (59 MPs) over the Indo-US nuclear agreement. Similar setback was faced by the UPA-II when TMC opted out of the government over fuel price hike and FDI in multi-brand retailing. The parties offering outside support means that

4. *G. Parmeshawara v. Union of India & Ors*, Writ petition no.(civil) 536/2018 in Supreme Court.

they neither want to be a part of the government nor hold any ministerial position. However, the party forming the government with outside support remains vulnerable because of lack of commitment from those parties offering outside support. The government would always prefer inside support because there is less chance of the regional party withdrawing support later. Today, alliances and coalitions have become a vital layer of democracy in the country.

“And Maharaj, courts also feel that the alliances and coalitions are just layers of democracy and are vitally, openly and reasonably in agreement with the coalitions, here is the court case expressing their view point, for your information.”

In *Mithilesh Kumar Pandey v. Election Commission of India*⁵ (DHC, 2014), Delhi High Court held that post-poll alliances cannot be declared as illegal on the ground of being contrary to the manifesto of the political parties entering into the alliance and it is not within the domain of Court to legislate or issue a direction therefore, making the manifesto a legally binding document on the political party issuing the same and post-poll alliances between political parties are valid even if their election manifestos declared that they will not make any post-poll alliance.

“Sanjay, I am needed to express, the validity of purpose is temporary and had always been an apprehension for the alliances. During our era, we elevated the affiliations through matrimonies which established the sincere element of loyalty. The marriages yielded into offspring which in turn bonded the associations deeper. An alliance merely on temporary motives is unstable, unreliable and can defunct any moment. And this Kalyugi population is nowhere close to the ethical persona that we carried during our times. Please attack my awe and present me the reality.”

Sanjay spoke humbly, “Indeed Maharaj, well said, the push and pull inside the Government based on coalitions sometimes, gets beyond the threshold. Here are some incidents when the supporting parties threatened to withdraw and later withdrew their supports from the Minority Party causing the Government to fall.” (Refer to Table 17.)

“Sanjay, elaborate on the aftermath of the dissolution of the Government.”

“Maharaj, let me elaborate on the conceptual understanding of such scenarios.”

Hung Parliament:

The Oxford Dictionary defines Hung Parliament as “parliament in which no party has clear majority.” In Parliamentary form of government, a hung parliament is one where no political party has outright majority and means the House is most commonly equally balanced. This situation is normal in many legislatures with

5. *Mithilesh Kumar Pandey v. Election Commission of India*, 2014(4) R.C.R.(Civil) 526.

TABLE 17 A SHORT LIST OF COALITION PARTNERS OF GOVERNMENT, WHICH WITHDREW SUPPORT

Telangana Rashtra Samithi	The Telangana Rashtra Samithi (TRS) was the first party to quit UPA alliance in 2006. First its ministers quit the Andhra Pradesh government. An official withdrawal was done at the national level by its president K. Chandrashekar Rao, who resigned his Lok Sabha seat.
Marumalarchi Dravida Munnetra Kazhagam	Marumalarchi Dravida Munnetra Kazhagam (MDMK), began its drift when it tied up with the UPA's rival All India Anna Dravida Munnetra Kazhagam (AIADMK) during the Tamil Nadu elections, and on March 16, 2007 officially withdrew support from the UPA government.
Bahujan Samaj Party	On June 21, 2008, the Bahujan Samaj Party, or the BSP, with 18 seats, announced withdrawal of its support after the Congress started opposing the UP government where the BSP was the ruling party. Their leader Mayawati said that she wouldn't enter an electoral alliance with either the Congress or the BJP. She also accused both parties of misusing the Central Bureau of Investigation or the CBI and attempting to implicate her in the Taj Corridor Case. She also accused Congress of making false promises to help the people of Bundelkhand and Poorvanchal regions as they were suffering from drought.
Left front	On July 8, 2008, Prakash Karat, the general secretary of the Communist Party of India (Marxist) (CPI (M)), announced that the Left Front would be withdrawing support over the decision by the government to go ahead with the Indo-US nuclear deal, a Section 123 Agreement with the United States.
Jammu and Kashmir Peoples Democratic Party	On January 4, 2009, Mehbooba Mufti, president of the Jammu and Kashmir Peoples Democratic Party announced withdrawal of the PDP from the UPA given that the Congress had decided to support the Omar Abdullah-led National Conference Government in Jammu & Kashmir after the 2008 state elections.
Pattali Makkal Katchi	On March 26, 2009, PMK declared that it would join the AIADMK led front and withdrew from the UPA and the party president declared that two union ministers of his party will resign shortly.
All India Majlis-e-Ittehadul Muslimeen	The MIM's decision in 2012 to break away from UPA came after the government allegedly allowed construction of a canopy over a temple abutting the historic Charminar in alleged violation of court orders to maintain status quo.
Trinamool Congress	On September 18, 2012, TMC Chief, Mamata Banerjee, announced her decision to withdraw support to the UPA after the TMC's demands of rollback of reforms including FDI in retail, increase in the price of diesel and limiting the number of subsidized cooking gas cylinders for households, were not met.

proportional representation such as Germany or Italy, or in legislatures with strong regional parties.

Hung parliament is a situation wherein no single political party or political alliance gains an absolute majority of seats in Parliament in India. In such a scenario, no party is able to form the government without the support of other parties. The onus shifts to the President or Governor who invites the biggest party or alliance and gives it sometime (generally 10 days) to prove a majority, failing which the former dissolves the Parliament/State Assembly and calls for an election. Interim, either the smaller parties try to join hands and outvote a big entity or the bigger parties persuade smaller parties to support them and create a coalition government with an absolute majority. There are certain effects of Hung Parliament⁶:

Political Instability

Hung Parliament leads to political instability in the country. The national party goes in search of regional partners to form the government. This is the point where the regional parties play a very important role in the formation of the government, they bargain with the national parties for ministerial post once they join the government and this process goes on. There are exchanges of dialogues in the political scenario of the country. No one is sure about the future of the nation. This is the point where the people feel they have been deceived as the political parties try to adhere to unfair practices in getting the support from the regional parties.

Minority Government

Although after hung Parliament a coalition comes to power yet no single party has the outright majority so we can term this sort of government as a minority government. In 2004, the UPA had 218 seats and was short of the majority mark, this led to the alliance with the Left, Samajwadi Party and others to form the government. The UPA relied upon its tested formulas which were previously tried in the Congress government of P. V. Narasimha Rao (1991–96). Earlier governments of V. P. Singh (1989–90) and Chandra Shekhar (1990–91) came into formation after hung parliament.

In case of a minority government there lies lacuna in decision making. Minority governments in most cases are not allowed to exercise their power properly. There are constant conflicts within and with the opposition parties, so a minority government is a detriment to the nation. Minority government looks at the short term benefits of the nation, well in case of a government having outright majority they cater to a 5-year perspective. Unstable ruling coalition may spend indiscriminately in order to satisfy the short term needs of its support groups. This would result in high debts to the successors.

The first incident of the Hung Assembly could be traced all the way back to 1952 in the Madras Legislative Assembly Elections; Governor Sri Prakasa invited

6. <http://www.legalserviceindia.com/article/1389-Hung-Parliament.html> (accessed Mar, 2019)

C Rajagopalachari to form the government with 152 seats whereas T. Prakasam led opposition had 166 seats in the mandate. This widely led it to be known as Sri Prakasa doctrine. Again, in 1967 Rajasthan Elections, United Front was ahead on number of seats but it was Congress which formed the government. The 1982 Elections of Haryana were a nail biting thriller with the coalition of BJP and INLD winning one seat more than the Congress but the Congress formed the government when the Governor called them right after inviting Chaudhury Devi Lal to form the government. The same could be seen in the previous elections in Manipur, Meghalaya and Goa wherein post-poll alliances and other factors have led to the formation of government with the latest entrant being Karnataka in 2018 where H.D. Kumaraswamy formed a government when B.S. Yeddyurappa resigned after being given fifteen days to prove majority in a floor test by the Hon'ble Supreme Court.⁷ The Sarkaria Commission was of the view that the following precedence be followed in case of a hung assembly:

1. An alliance of parties that was formed prior to the Elections.
2. The largest single party staking a claim to form the government with the support of others, including "independents."
3. A post-electoral coalition of parties, with all the partners in the coalition joining the Government.
4. A post-electoral alliance of parties, with some of the parties in the alliance forming a Government and the remaining parties, including "independents" supporting the Government from outside.⁸

Meanwhile, the Punchhi Commission, 2010 called for clear guidelines on the powers of the Governors during a hung assembly.

On the question of Governor's role in appointment of Chief Minister in the case of a hung assembly there have been judicial opinions and recommendations of expert commissions in the past. Having examined those materials and having taken cognizance of the changing political scenario in the country, the Commission is of the view that it is necessary to lay down certain clear guidelines to be followed as Constitutional conventions in this regard.⁹

As the existing strength of the Lok Sabha is 543, the magic figures come to 272 that ensures a party or alliance's majority in the House, necessary to form the government. With large number of regional parties coming in the fray and contesting Lok Sabha elections in recent years; it has generally become difficult for a single party to reach that magic figure. This is when the question of coalition or post-poll alliance crops up.¹⁰ The same phenomenon is replicated in case of elections to legislative Assemblies in every state.

7. <https://barandbench.com/hung-assembly-governor-call/> (accessed Mar, 2019).

8. Para 4.11.04, Sarkaria Commission Report.

9. <http://interstatecouncil.nic.in/report-of-the-commission-on-centre-state-relations/> (accessed Mar, 2019)

10. <http://www.elections.in/political-corner/process-of-government-formation-in-india/> (accessed Mar, 2019)

The two major national parties—the Congress and the Bharatiya Janata Party—becoming ready and willing to form coalitions heralded an era of coalition governments both at the center and states, enabling parties to increase their power and their pay-offs. Parties across the political spectrum have tended to converge on macroeconomic policy, but continue to diverge on social policies and larger issues that confront India, such as nation building and secularism. Chronic lack of internal democracy coupled with the rise of political corruption practices are matters of serious concern. A broader view of governance, resisting temptations to concentrate power and pursue personal enrichment would enable parties to deliver policies for a better, more just society.¹¹

“Maharaj, now let us look at the Presidential Post of the Government of India.”

“Sanjay, as I understood the Constitution of India’s provision for democracy explained by you. I was a bit astonished to reckon that the so called King, emphasized as the President of India is an honorary post for ornamental, veneration, and presentational purposes. The real powers are with the head of Ministry. The chair of Prime Minister has the actual, maximum, absolute power and control over all aspects of the sovereignty. You may, as you should, still elaborate on the Presidential Role of the country regarding the management and regulation of Chairs of Cabinet.”

“Sure, Maharaj, it’s as follows.”

President’s Role

The President of India is recognized as the first citizen of our nation. Although Article 53 of the Constitution of India states that the President can exercise his or her powers directly or by subordinate authority, but there is a major chunk of people which believes that the President doesn’t contribute toward significant decision making for the cause of the nation, as all decision-making power lies with the Prime minister but there are certain place where President plays a vital role as¹²:

- (i) The executive powers of the Indian Union, under Article 53 of the Constitution, vest in the President. The President has a right to be informed of all of the nation’s affairs, enjoys powers to appoint and remove high Constitutional authorities, including the prime minister and the council of ministers.¹³

11. <https://journals.sagepub.com/doi/full/10.1177/2321023016634902>

12. http://www.iitk.ac.in/ime/MBA_IITK/avantgarde/?p=701

13. <https://www.hindustantimes.com/india/role-and-power-of-india-s-president/story-glu9uyqsZLUtvgyxO2cpK.html> (accessed Mar, 2019)

- (ii) The President appoints the Prime Minister and the other members of the Council of Ministers, distributing portfolios to them on the advice of the Prime Minister (this power is only notional and not real).
- (iii) In the event of a hung parliament, where no party has absolute majority in the Lok Sabha, the President invites parties to command the required support and form the government. If the majority is still not achieved President can call for a new election.

The executive power shall be exercised by the President in accordance with the advice of the Council of Ministers. The saving grace is that the President may require the Council of Ministers to reconsider the advice tendered to him. But sometimes, matter referred back to the Prime Minister for reconsideration. The government may decide to withdraw the decision in deference to the advice of the President. In case the Prime minister had considered the Presidential advice but decided to stick to the former decision, the President would have had no choice but to agree. The President is bound to act in accordance with the advice tendered after reconsideration. It is obligatory for the President to act in accordance with ministerial advice once it has been reconsidered.

Regarding exercise of President's power, Justice Sawant while delivering the judgment in *SR Bommai & Ors. v. Union of India*¹⁴ (1994) case had concluded:

“...the exercise of power to issue proclamation under Article 356(1) is subject to judicial review at least to the extent of examining whether the conditions precedent to the issue of Proclamation have been satisfied or not. This examination will necessarily involve the scrutiny as to whether there existed material for the satisfaction of the President that the situation had arisen in which the Government of the State could not be carried on in accordance with the provisions of the Constitution. While considering the question of material, it was held that it is not the personal whim, wish, view or opinion or the ipse dixit of the President de hors the material but a legitimate inference drawn from the material placed before him which is relevant for the purpose. In other words, the President has to be convinced of or has to have sufficient proof of information with regard to or has to be free from doubt or uncertainty about the state of things indicating that the situation in question has arisen.”

“Maharaj, the most important aspect i.e., the Mission, for which long ordeal, perseverance, networking, dramatics, financial and other crimes are conducted, is to form government and step into position of power. Prime Minister and Cabinet ranks are therefore most sought after positions in Indian Democracy and at State level, Chief Minister and state ministers are the sought-after positions. One reaches the Parliament after winning the election from his or her constituency. The assignment of chairs or the kursis is finally done at this stage.

14. *S.R.Bommai & Ors. v. Union of India & Ors.*, (1994) 3 SCC 1.

Here is the generic elaboration of how a newly elected Political Party distributes the chairs among its handful candidates chosen to be in the cabinet.”

From Candidate to Cabinet

Every Government seeks to have a Representative Government which gives adequate representation to the different classes. Primarily, the attachment to the ideology of the party is an important factor too. With the present in hand, it becomes necessary that there is one foot in the future and thus, people who could be groomed for future responsibilities are often made Ministers in the Cabinet. The Cabinet deals with the Executive and someone who has the understandings of the working of the bureaucracy is an asset which explains the presence of people like Hardeep Purie, K.J. Alphons among others in the Modi Cabinet. At places where there is availability of vote bank but lack of a popular figure, the Parties usually invite eminent personalities from that region through the Lok Sabha or the Rajya Sabha route and make them a Minister to gain popularity and votes. The next important thing is to appease the coalition partners and the general trends of Caste along with strong images of local leaders who may not be winning elections themselves but hold a say in the affairs of the region. These reasons contribute to the combined societal psychology of “My Votes” which appeals to the voter and makes him feel very much a part of the democratic process.

The election of a new House of Representatives is followed by the formation of a new Cabinet by certain steps:

(i) Formation of Council of Ministers:

Article 53 of Indian constitution lays down that the Executive power of the Union shall be exercised by the President of India, either directly or through officers subordinate to him. These officers, subordinate to him, are evidently the Ministers. According to Article 74, there is to be a Council of Ministers with the Prime Minister, as the head to aid and advise the President, in the exercise of his functions. The advice of the Ministers can not ordinarily be flouted as Parliamentary form of government has been opted for in our country.¹⁵

The 42nd Amendment Act, 1976 made the advice of the Council of Ministers binding on the President. Thus the acceptance of advice of the Council of Ministers by the President became mandatory and was no longer mere conventional. Article 75 explains the process of formation of the Council of Ministers. According to this Article, the Prime Minister is to be appointed by the President and the Ministers are appointed on the advice of the Prime Minister. The Council of Ministers must be collectively responsible to the Lok Sabha.

15. <http://www.yourarticlelibrary.com/indian-constitution/council-of-ministers-in-india-formation-process/49250> (accessed Mar, 2019)

Though according to Article 75, the President appoints the Prime Minister yet he can hardly exercise his discretion. The choice of the Prime Minister is limited to the leader of the party or group commanding a majority in the House of the People (Lok Sabha). If no single party commands a majority in the Lok Sabha, two or more parties may form a coalition and select a common leader, who is apt to be appointed as Prime Minister by the President.

The appointment of Ch. Charan Singh, V.P. Singh, Chandra Shekhar, Deve Gowda, I.K. Gujral, A.B. Vajpayee and Dr. Manmohan Singh as heads of coalition governments at the Center are the instances of such a type.

Though the Prime Minister has some latitude in the selection of his colleagues, yet his hands are fettered to some extent. Some of the important members of the party are apt to be selected as Ministers as per consultation with the Party High Command.

(ii) Distribution of Portfolios:

After constituting the Council of Ministers, the Prime Minister has to distribute portfolios among his council of ministers. As per the provision, it is the Prime Minister who decides as to whom a particular department is to be assigned, however, usually Party High Command has a fair say in such selections.

Ministers, who held portfolios in the previous cabinet, are likely to have elevated cabinet berth due to experience and standing in the party. Certain Ministers may express their likes and dislikes for certain departments. They may have to be accommodated since they happen to be indispensable and trusted lieutenants of the party.

(iii) The Cabinet and the Ministry:

A distinction between Cabinet and Ministry does exist in India, as in England. In India about twenty out of fifty to seventy Ministers are the members of the Cabinet. The Cabinet Ministers hold comparatively more important portfolios. Secondly, there are Ministers of State (Independent Charge) followed by Ministers of State (Junior Ministers). Though they are of Cabinet status, yet they are not members of the Cabinet. They are the heads of the various departments. They may attend the meetings of the Cabinet, when an invitation is extended to them by the Prime Minister. They are accountable to the Parliament like Cabinet Ministers. They receive the same salary as the Cabinet Ministers.

(iv) Breakaways from Cabinet:

The ministers are normally to be members of one of the two Houses of Parliament. However, the Prime Minister may also appoint even non-members of the Parliament as the Ministers. For instance, Mrs. Indira Gandhi as Prime Minister made use of the provision. In 1966, she appointed Fakhruddin Ali Ahmed, Ashok Mehta and N. Sanjiva Reddy as Ministers and again in 1967, Dr. Triguna Sen, Dr. Karan Singh and Dr. Chenna Reddy were given minister post though they were not members of either of the two Houses of the Parliament. A Minister who for any period of six consecutive months is not a member of either House of Parliament, shall cease to be a Minister at the expiration of that period.

Appointment of Prime Minister of India

Article 75 provides that the Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister and the Council of Ministers shall be collectively responsible to the House of the People. Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule. A Prime Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be Prime Minister.

An important principle of parliamentary democracy is that the sovereign acts on the advice of the Council of Ministers. This rule has been made applicable to the President who is head of the State at the Center and the Governor who heads the state government. The Constitution provides that there shall be a council of ministers with the Prime Minister at the head to aid and advice the President, who shall act in accordance with such advice.¹⁶ A similar provision exists regarding the Governor of a state and her council of ministers, with the exception that the Governor has not been made bound by the advice of the council of ministers because she has to act according to her discretion in some matters.¹⁷ The question whether any, and if so what advice was tendered by ministers to the President cannot be inquired into in any court.¹⁸

“Sanjay, your specifications have provided me with considerable bird’s eye view about the legal provisions laid down to coronate these chairs. These Ministers hold vital responsibility to rule the divergent fields of the country. Does the country vests in the leaderships of women in fairly, equitable, unhindered and absolute manner?”

“Yes Maharaj, women have a very fair representation in our Bharat-varsh. The women hold high posts in all legs of democracy. They are judges, bureaucrats, police officers, diplomats and ministers. In almost all Political Parties of India, women have noticeable roles. Women had been on the various high chairs of the government. Late Smt. Indira Gandhi and Smt. Pratibha Patil held the offices of PM and President respectively. The contemporary cabinet of Prime Minister Modi also has a fair women Representation. Here is a brief about the current and previous cabinet.”

Manmohan Singh Cabinet Vis a Vis Narendra Modi Cabinet

Atal Bihari Vajpayee had a cabinet which was leaner at the starting but went on to have 88 Members in its entire team. Manmohan Singh in his second term as the Prime Minister had started with a cabinet which had 78 members at its peak in

16. Constitution of India art 74 (1).

17. Constitution of India art 163 (1).

18. Constitution of India art 74 (2) and 163(3); 8 1(i) RTI Act does not allow for disclosure of the information pertaining to the Decisions taken by Council of Ministers.

October 2012 which had earlier dwindled when Trinamool Congress withdrew it supported but had grown back to the same strength after October 2012. The Modi Cabinet has 66 Members with 27 Members, 13 MoS with independent charge, 26 MoS.

Manmohan Singh had a total of two women ministers while the Modi Cabinet has six Women Ministers. The present Cabinet under PM Modi has its average age going down to 60 from 68 in the Manmohan Singh cabinet in UPA II. The Cabinet is less wealthy compared to the outgoing one which had an average asset of Rs. 13 Crores to the Present one's 4.3 Crores¹⁹.

“Sanjay, the women are our back bones. They are the souls who are ahead in the journey of men in patience, endurance, compassion, nurturance, deference, empathy, spirituality and companionship. They are the gateway to bring souls to the earth through their wombs. They not only provide birth but also nurture a life till it becomes adult and self sustains. These women of Kalyuga who are the mothers, the daughters, the friends, the sisters, the energy, the partner, the selfless, the guide, are the super humans who despite of subject to natural restrictions, are partnering with these men and contributing in the growth of civilization. My deepest regards and reverence to them. Sanjay, my heart feels electrifying elation. Would you subjugate it by announcing some Kalyugi mischievousness?”

“Maharaj, do not jump on conclusions, India is a complex, disparate, asymmetrical fabric and so is the condition of women but indeed, the country has fair prospects once women cross the dungeons of darkness and reach the mainstream. On the various indexes the women of the country are faring very bad. On Global Gender Gap Index, Treatment of women and gender parity was measured in four areas, namely health, education, economics and politics and ranks were given to 144 countries on the progress they have made in these areas. In 2006, India's rank was 87, when the World Economic Forum (WEF) had started measuring gender gap across the world. India's rank was 108 in November 2017. Our neighbor Bangladesh ranked 47 in this, while Norway (First rank), Finland, Rwanda, Sweden, Ireland, Nicaragua, Philippines made a mention in top 10 rankings. United Kingdom and United States ranked 20 and 45 respectively. It was estimated that at the current rate of progress of India, the global gender gap will take 100 years to bridge. However, the case is worse in terms of workplace gender divide, which, as the report estimates, will take 217 years to bridge. The stark revelation contained in the said report is that in India, Political empowerment for women is ranked at 15, while Economic participation and opportunity is ranked at 139 and Health and survival is ranked at 141 (almost bottom of the table).

19. Quartz, at the Helm: Five significant ways in which India's new cabinet is different, Sruthijith KK and Shruti Chakraborty, (accessed Mar, 2019)

TABLE 18 GLOBAL GENDER GAP INDEX MEASURING TREATMENT OF WOMEN IN FOUR AREAS, NAMELY HEALTH, EDUCATION, ECONOMICS AND POLITICS AND RANKS WERE GIVEN TO 144 COUNTRIES ON THE PROGRESS THEY HAVE MADE IN THESE AREAS

In 2006, India's rank was 87, when the World Economic Forum (WEF) had started measuring gender gap across the world. In 2017, India's rank was 108.

DOWN FROM 87 TO 108

Global Index		Economic Participation & opportunity		Educational Attainment		Health & Survival		Political Empowerment	
2017*									
Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score
108	0.669	139	0.376	112	0.952	141	0.942	15	0.407
2016*									
Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score
87	0.683	136	0.408	113	0.950	142	0.942	9	0.433

* Total 144 countries; highest score 1, lowest 0.

Source: The Global Gender Gap Report 2017.

“Maharaj, the above index shows how the women are treated in India. Further, The Women Reservation Bill was passed by Rajya Sabha in 2010. However, Lok Sabha never voted for the bill. Later the bill lapsed on dissolution of 15th Lok Sabha and never found mention thereafter.”

Maharaja assimilated the statistics and sighed for the overall depleted condition of women, thereafter he spoke, “Sanjay, I could see the bifurcation of the civilization's consciousness about positioning the women adequately. A woman is the pivot of generosity, nurturing, binding, rooting, caring and guiding her family. She is the natural leader for the smallest unit of civilization. The families who provide for and maintain due respect for her individuality, decisions, dignity and actions, invite the divine blessings. The children of such cherished women are intelligent, self-sufficient, contented and asset to the masses. Let me recite a shloka from Manusmriti.”

यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः ।
यत्रैतास्तु न पूज्यन्ते सर्वास्तत्राफलाः क्रियाः ।

Yatra naryastu pujiyante ramante tatra Devata,
yatraitastu na pujiyante sarvaastatrafalaah kriyaah

Meaning:

Where Women are honored, divinity blossoms there, and where ever women are dishonored, all action no matter how noble it may be, remains unfruitful.

“Sanjay, while Indian race needs to give due weightage to women’s health and respect and opportunities to women at work place; the achievements of this modern era are still notable, they have been able to nurture, upgrade and uplift the inherit potential of Shakti. I feel excited to realize that at least some virtuous women have achieved and proven their mettle into Indian politics.”

“Maharaj, most of the Indian women keep bearing in silence. Some come out but they are mishandled for coming out against wrongdoings and incorrect thinking pattern of society. Though both man and woman are equal part of *Ardhanarishwar* (Lord Shiva), yet getting equal treatment is a dream for women in India. In some cases, the women also mistreat men, but such cases are insignificant in comparison of mistreatment of women by men. The primary reason, as it appears to me, for women’s such condition is their inability to dialogue and demand. The demand lacks due to non-awareness. Non-awareness is the consequence of lack of exposure, education and equal and fair treatment.”

“Maharaj, now coming back to the Democratic machinery, let me induce further tingling of excitement in your heart, by announcing that there is a legitimate official post for the Leader of Opposition in the Parliament. The spectacular democracy provides for a voice that can hold the Government accountable for its deeds during the period of incumbency. Here are the details.”

Leader of Opposition (LoP):

For a healthy Parliamentary democracy it is always considered essential that there should be a strong opposition, which should always be in a position to saddle itself in authority, as and when the ruling party falters and fails to deliver. But in India the position has been quite different. During freedom struggle, Indian National Congress was the only party recognized as vanguard of freedom movement and so Congress ruled the country for good 39 years until 1989, excluding the period from 1977 to 1980, when Janata Party government formed the first ever non-Congress government in independent India. Since 1989, India has seen coalition governments only. In 2014 election, though BJP cleared the majority mark, but it contested the election under the umbrella of NDA (pre-poll coalition of 30+ parties), so despite clear majority of BJP, the government is of NDA, which is coalition of political parties.

In the current scenario, a Leader of Opposition has very important roles to play to effectuate the democratic fabric and is responsible to provide constructive criticism of the government policies. They get same salaries and allowances that are equivalent to a Cabinet minister, paid by the government. To become a Leader of Opposition, the single largest political party in opposition should have at least 10% seats in the Lok Sabha. The Leader of such a party acts as the Leader of Opposition.

Official Opposition party refers to the non-ruling party or coalition that has secured the highest number of seats in the Lok Sabha. The status of opposition party is given only when a standalone party secures at least 10% of the seats. In India, for the period of 2009–2014, the official opposition party was Bharatiya Janata Party (BJP). The ruling party for the period of 2014–2019 is BJP. However,

there is no opposition party for the period (2014–2019), since not a single party managed to secure at least 10 percent of the seats.²⁰

Leader of the Opposition (India) refers to the political figure who leads the official opposition party. Sushma Swaraj was the leader of the opposition party for the period of 2009–2014. However, this position remains vacant for the period of 2014–2019, since there is no official opposition.

Eligibility Criteria of the Leader of Opposition:²¹

- (i) Each house has a Leader of Opposition—leader of the largest party that has not less than one-tenth of the total strength of the house. In Lok Sabha, total strength = 545, one tenth = 55.
- (ii) Largest party in opposition and its leader is recognized by the Speaker/Chairman.
- (iii) Main opposition's strength must be 10% of the total strength.
- (iv) Leader of Opposition accorded statutory status and defined under Salary and allowances of Leaders of Opposition in Parliament Act, 1977.

Role of Leader of Opposition

The opposition ensures that the ruling political parties have a definite programme and policy to offer to the people and who can show a progressive path by action and not just by propaganda. The role of the opposition party is not to oppose every decision of the ruling party. Rather, it is the duty of the opposition party to support the ruling party for the acts that are in the interest of the nation. The main role of the opposition is to question the government and hold them accountable to the public. The Opposition represents an alternative government and is responsible for challenging the policies of the government and producing different policies where appropriate.²²

Significance of the Leader of Opposition:

- (i) To provide constructive criticism on the policies of the government.
- (ii) Helps to represent a view contrary from that of government.
- (iii) Leader of Opposition is required on the panels that recommend key appointments like Lokpal, CVC, CIC etc.
- (iv) For transfer posting of top bureaucratic posts, the members of this Committee, will be selected by PM and Leader of Opposition.

“O Sanjay! This is the best dice roll of the entire game of ‘chausar.’ I eventually confront admiring the diplomatic culture of this Kalyugi Democratic

20. <https://www.importantindia.com/749/role-of-opposition-in-india/> (accessed Mar, 2019)

21. <https://www.iasscore.in/upsc-prelims/leader-opposition> (accessed Mar, 2019)

22. <http://decisionmaker.co.nz/guide2003/hgw/oppose.html> (accessed Mar, 2019)

Era that legitimizes the Difference of Opinion, Healthy Criticism, Openness, Objectivity, Scrutiny, Debates and Suggestion. This is an ultimate assurance of the Democracy that the ruling Government wouldn't turn Dictators during the incumbency. Hail Democracy.”

“Maharaj, you must never ever rejoice to the prospects of Kalyuga, every scenario has two sides. Already you have grasped the flavor of Kalyugi Democracy, hence, I plead, do not make exceptions. During the 2014–2019 Lok Sabha, no opposition party managed to secure 10% of the seats in the parliament and hence the leader of Opposition couldn't be appointed and the incumbent Government acted the way it pleased. Democracy is best shown during the phase of elections. Post formation of government, this democratic fabric turns in to the color of Dictatorship, where even the Council of Ministers are kept at bay and not allowed a say. This dictatorship produces government policies like demonetization, which damage the system much more than the anticipated benefits. The Council of Ministers is required to have participative roles to make it sound like true democracy and to avoid excursions of dictatorships.”

“Sanjay, as much as this Indian Democracy has the established tenacity, vigor, substance, intensity, depth and breadth, power and control; it also has the need to unclutter the stigma of corruption, enforce the eligibility of education and splendid moral fiber for the politicians, bring urgently needed reforms, curtail the financial leakage, introduce more transparency and accountability and take other necessary actions to ensure the progress of civilization to a next level. The Top leaders of the country, such as Cabinet Ministers, Prime Minister, President, Chief Ministers and Ministers of his Legislative Council must be the people of highest morals, educational background and welfare inclined because that is what Krishna suggests.”

“Indeed Maharaj. Let us recite this shloka from the Battlefield of Kurukshetra, where Lord Krishna explains that people holding the influential positions must exhibit greatness through their deeds because the common people get inspired by them and imitate their deeds. If the leader of the country performs shallow acts then the citizens are likely to follow the course. Similarly, the leaders represent the nation and should be of highest moral fiber and educational qualification so that the similar standard is passed on to the citizens.”

कर्मणैव हि संसिद्धिमास्थिता जनकादयः |
लोकसंग्रहमेवापि सम्पश्यन्कर्तुमर्हसि|| 20||
यद्यदाचरति श्रेष्ठस्तत्तदेवेतरो जनः |
स यत्प्रमाणं कुरुते लोकस्तदनुवर्तते|| 21||

karmaṇaiva hi sansiddhim āsthitā janakādayaḥ
loka-saṅgraham evāpi sampaśhyan kartum arhasi
yad yad ācharati śhreṣṭhas tat tad evetaro janah
sa yat pramaṇam kurute lokas tad anuvartate

—Krishna to Arjuna, Chapter 3, Text 20–21, Shrimad Bhagavad Gita

Meaning:

By performing their prescribed duties, King Janak and others attained perfection. You should also perform your work to set an example for the good of the world. Whatever actions great persons perform, common people follow. Whatever standards they set, all the world pursues.

“Maharaj, the Job Requirements for an orderly or a clerk or an engineer or other positions in government departments come with minimum or expert Qualifications; whereas for somebody, who has to handle the aspirations of billions, there are no qualifications or set guidelines of expertise. The Citizens seek for a competence level, specialization, education and skill set that would make the Cabinet much more dynamic and free from corruption and criminal antecedents. The major reason for policy lapses is the non-understanding of the finer nuances of decision making and critical components of the policy by many Members of Cabinet. In such a scenario when we have a pretty young country bubbling with the energy of the great numbers of youths (65%), it becomes quite obnoxious to think that the energetic youth would like to be trapped into the corrupt machinery of politics where even they would be made dysfunctional. In addition, youths are also not given right chance to serve the country, but their energies are wasted in the survival and due to lack of opportunities. A paradigm arises wherein you expect the yield to be exemplary but forget watering the plants. The issues which plague India, like Unemployment, Unskilled Youth, Corruption, Mismanagement of Government funds, Lack of Sensitivity in Public interface of Government Departments like police etc., messed up and commercialized Education system, lack of a qualitative approach to life, lack of proper and uncommercialized medical facilities etc. etc. are the things, which indicate that deep within, something is not good, something is being done incorrectly, something is required to be improved and made better, something needs an overhaul and new direction. All the Ministers of Center and States have stakes in these somethings, who also have to give due results by way of good governance.”

“Sanjay, you have correctly said. The leaders need to identify the problems and perform greater deeds to rectify the scenario. Lord Krishna’s wisdom clearly guides that whatever standards our leaders set, the entire country will pursue. The criminals on the chair would promote crime, the illiterates on the chair would promote backwardness, the self-centered debauchers would discourage Public welfare. May the Arjunas in the heart of politicians awake and proceed with the wisdom of Krishna. May the young Arjunas of the country get empowered and blessed to take the country to the next level of glory and path breaking achievements.”

“Tatasthu Maharaj” Sanjay’s face had the joy and placidness that reflected his Master’s.



PART IV

THE POLITICAL HARD FEELINGS





CHAPTER 14

THE MELODRAMATIC MANIFESTOS

Manifesto – Flirtatious Promise is the way to Woo the Voters!

Maharaja Dhritarashtra appeared restless. One moment, he uttered a word, the other moment, he turned his face away. He would rise to his feet and take hasty steps. Sanjay responded to the anxiety of his Maharaja.

“Maharaj, we both know, I have the complete knowledge of the unfulfilled promises of your clan against the sons of Pandu. Your presence at the ceremony of *Chausar* (Game of Dice) makes you accountable for their conspiracies, fraud and unfortunate and sinful events, obtained condonation through the interference of your wife Maharani Gandhari followed by the pretense of Promises. I have seen it all, Maharaj, you may regain equilibrium because past is done and all we are left with is old, fragile and accountable you and your humble servant, myself.”

“Sanjay! Look at my dilemma. The historical accounts remember me as unworthy. My own loyalists taunt at my inaction. All of them may conveniently ignore the aspect of my blindness. The veracity of someone’s life is only known to him. I and Pandu were fathered through Niyoga. I was elder, nurtured my life with the same knowledge and wisdom under the common Guru Kripacharya but when the time came to take the throne, Pandu was chosen over me. My power of one hundred elephants wasn’t even considered. Was it, I to be punished for my blindness? It was my mother Ambika who had shut her eyes out of dreadfulness while copulating with the Rishi Vyasa that cost me not only my vision but also the dignity of life. When you are subjugated to a lonely pavement, you learn to be mute. All those years when my muteness aided to their objectives, I was neither criticized nor questioned. Why, then, suddenly, I was expected to speak?”

“When I kept mum and cooperated in enduring my adverse circumstances, why would I speak to interfere in the bright prospectus of my son? As a father I had failed him, just like my mother had failed me. It was Duryodhana’s design to trap the Pandavas into divulging their kingdom to him. Yes, my sons humiliated my brother’s daughter-in-law, it was burdensome to stay quiet but I did, just as I stayed quiet facing all my atrocities. The promise of returning the Kingdom didn’t come from me. Hence the estoppel doesn’t apply to me.”



Sanjay understood the flavor of adversity in the discussion. He retracted. “Maharaj, it appears that the promissory estoppel is effortlessly inapplicable in political matters even in Modern Indian Democracy. The Political parties issue a formal letter of promise called Manifesto to the general public which is also not legally binding to them in case they falter the same.”

“Go on, Sanjay, I am listening.”

Sanjay said, “A manifesto means a document of intention and plan, also giving clues to how a party views politics. Its aim, however, is to convert voters to a specific party. Elected to power, no party has ever delivered one hundred percent what it had promised in a manifesto. At times, a party elected to power may also flout what it had promised. Importantly, everything is not manifest in a manifesto for things remain latent. The latent becomes manifest not in a manifesto but in mobilizations where unsaid is as important as the contexts in which things are said. Election manifestos in India usually comprise a mix of straightforward sops, specific promises and vague letters of intent. The informed voter informed by the media, which rightly pays more attention to utterings at election rallies, press conferences and tweets than in manifestos is interested only in the ‘specific’ category of promises.¹ Here is what the Courts have said on manifestos.”

Courts on Manifestos

While statutory authorities can confer social or economic benefits on particular sections of the community, their power is limited by the principle that such benefits must not be excessive or unreasonable. As Lord Atkinson stated in *Roberts v. Hopwood and Ors*² (1925) the State cannot act in furtherance of “eccentric principles of socialistic philanthropy.”

Under Section 123(1)(A) of the RP Act, any “gift, offer or promise” by a candidate or his agent or by any other person, with the object of inducing a person to vote at an election amounts to “bribery,” which is a “corrupt practice” under the said section. The key element in this section is that the voter must be influenced to vote in a particular manner. It has been held in *Richardson-Gardner v. Eykyn*³ (1869) that the making of charitable gifts on an extensive scale would lead to an inference that this was made to influence voters.

After the analysis of 123 of RP Act, the Courts have arrived at a conclusion that the promises in the election manifesto cannot be read into Section 123 for declaring it to be a corrupt practice. Thus, promises in the election manifesto do not constitute as a corrupt practice under the prevailing law. A reference to a

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1. <https://economictimes.indiatimes.com/blogs/Undertheinfluence/the-election-manifesto-is-reborn/> (accessed Mar, 2019)
 2. *Roberts v. Hopwood and Ors*, 1925 AC 578.
 3. *Richardson-Gardner v. Eykyn*, (1869) 19 LT 613.

decision of this Court will be timely. In *Prof. Ramchandra G. Kapse v. Haribansh Ramakbal Singh*⁴ (1996), the Hon'ble Supreme Court held that "Ex facie contents of a manifesto, by itself, cannot be a corrupt practice committed by a candidate of that party."

In *S. Subramaniam Balaji v. State of Tamil Nadu*⁵ (2013), it was held by the Supreme Court of India:

"The gist of Appellant's argument is that promises of freebies such as colour TVs, mixer-grinders, laptops, etc., are in form part of an election manifesto of a political party but in substance is a bribe or inducement under Section 123. Thus, it is the stand of the Appellant that the promise of this nature indeed induces the voters thereby affecting the level playing field between the candidates, which in turn disrupts free and fair election. Therefore, the Appellants suggested for construing the promises made in the election manifesto as a corrupt practice under Section 123 of RP Act. He mainly relied on the principle that one cannot do indirectly what it cannot do directly.

As appealing this argument may sound good, the implementation of this suggestion becomes difficult on more than one count. Firstly, if we are to declare that every kind of promises made in the election manifesto is a corrupt practice, this will be flawed. Since all promises made in the election manifesto are not necessarily promising freebies per se, for instance, the election manifesto of a political party promising to develop a particular locality if they come into power, or promising cent percent employment for all young graduates, or such other acts. Therefore, it will be misleading to construe that all promises in the election manifesto would amount to corrupt practice. Likewise, it is not within the domain of this Court to legislate what kind of promises can or cannot be made in the election manifesto.

Secondly, the manifesto of a political party is a statement of its policy. The question of implementing the manifesto arises only if the political party forms a Government. It is the promise of a future Government. It is not a promise of an individual candidate. Section 123 and other relevant provisions, upon their true construction, contemplate corrupt practice by individual candidate or his agent. Moreover, such corrupt practice is directly linked to his own election irrespective of the question whether his party forms a Government or not. The provisions of the RP Act clearly draw a distinction between an individual candidate put up by a political party and the political party as such. The provisions of the said Act prohibit an individual candidate from resorting to promises, which constitute a corrupt practice within the meaning of Section 123 of the RP Act. The provisions of the said Act place no fetter on the power of the political parties to make promises in the election manifesto."

4. *Prof. Ramchandra G. Kapse v. Haribansh Ramakbal Singh*, AIR 1996 SC 317, (1996) 1 SCC 206.

5. *S. Subramaniam Balaji v. State of Tamil Nadu*, (2013) 9 SCC 659.

“Maharaj, in *S. Subramaniam Balaji*’s case where a promise to distribute the freebies was made upon the election of party to power, Supreme Court has gone through the nitty-gritties of the play of fake promises to the people and observed as follows.”

The case of *S. Subramaniam Balaji* related to promise of distribution of free gifts by political parties (freebies) if said party/its alliance were elected to power. The Supreme Court of India observed that promises in election manifesto cannot be read into Section 123 for declaring it to be corrupt practice. Although, the law is obvious that the promises in the election manifesto cannot be construed as ‘corrupt practice’ under Section 123 of RP Act, the reality cannot be ruled out that distribution of freebies of any kind, undoubtedly, influences all people. It shakes the root of free and fair elections to a large degree. The Election Commission through its counsel also conveyed the same feeling both in the affidavit and in the argument that the promise of such freebies at government cost disturbs the level playing field and vitiates the electoral process and thereby expressed willingness to implement any directions or decision of this Court in this regard. However, the Court observed that it has limited power to issue directions to the legislature to legislate on a particular issue. The Election Commission, in order to ensure level playing field between the contesting parties and candidates in elections and also in order to see that the purity of the election process does not get vitiated, as in past been issuing instructions under the Model Code of Conduct. The fountainhead of the powers under which the commission issues these orders is Article 324 of the Constitution, which mandates the commission to hold free and fair elections. It is equally imperative to acknowledge that the Election Commission cannot issue such orders if the subject matter of the order of commission is covered by a legislative measure.

The Supreme Court directed in the above case as under:

“Therefore, considering that there is no enactment that directly governs the contents of the election manifesto, we hereby direct the Election Commission to frame guidelines for the same in consultation with all the recognized political parties as when it had acted while framing guidelines for general conduct of the candidates, meetings, processions, polling day, party in power etc. In the similar way, a separate head for guidelines for election manifesto released by a political party can also be included in the Model Code of Conduct for the Guidance of Political Parties & Candidates. We are mindful of the fact that generally political parties release their election manifesto before the announcement of election date; in that scenario, strictly speaking, the Election Commission will not have the authority to regulate any act which is done before the announcement of the date. Nevertheless, an exception can be made in this regard as the purpose of election manifesto is directly associated with the election process.”

“Maharaj, the Supreme Court therefore directed the Election Commission to frame guidelines in consultation with all recognized political parties and also record the need for a separate legislation to be passed by the legislature in this regard for governing the political parties in our democratic society. Though

the Election Commission was directed to take up this task as early as possible owing to its utmost importance and the urgent need for separate legislation to be passed by Legislature in this regard for governing political parties, was clearly expressed by the Supreme Court of India, both Election Commission and the Legislature have not done the requisite yet. Hence there is no legal enforceability to these guidelines.

After *S. Subramaniam Balaji* case, the ECI released a Press Note as follows:

ECI Press Note No.ECI/PN/38/2013 Dated August 12, 2013 wherein the then Chief Election Commissioner Shri V.S. Sampath explained to the political parties the background and thanked the political parties for their continuous co-operation in all areas of election management. He observed that some political parties had already given their written suggestions/views on the issue while some were yet to give this to the Commission. He requested the remaining political parties to give their views in the matter within a week. Besides the Chief Election Commissioner, Election Commissioners Shri H.S. Brahma and Dr. Nasim Zaidi also heard the presentation made by the political parties. The views of the political parties were mainly invited on the broad frame work of guidelines on election manifesto and freebies, timing of release of election, mechanism for ensuring compliance of guidelines and practicability of implementation of promises of freebies. Both National and State recognized political parties presented their views before the Commission. The Commission noted these views. ECI released directive vide ECI letter No. 437/6/Manifestos/ CCS dated April 24, 2015 which prescribed three major guidelines for manifestos:

- 1) That it should not be a hindrance to the conduct of Elections by ECI as envisaged under Art. 324 of the Indian Constitution.
- 2) That it should be in furtherance of the DPSPs as envisaged in the Constitution.
- 3) That no such promises which are not bound to succeed be made in Election Manifestos.

“Sanjay, I can see the tussle of Election Commission of India with the Political Parties. It is notably corroborated with the lack of legislative enforceability.

No wonder, the country needs to take substantial stride to strengthen the gatekeepers of the electoral gate. This has direct connotation with the healthier, cleaner, immaculate, unblemished, more authentic, appropriate and progressive democracy.”

“Indeed Maharaj, now let me take you through the declared manifestos for the 2014 Lok Sabha Elections, for the two main political parties in the prime competition in 2019 General Election.”

BJP vs INC: Manifestos 2014

The 2014 INC manifesto mentions promotion of a “more flexible labour policy” and “greater integration with global economy,” but it didn’t hint at what these lofty

goals will entail. BJP manifesto stated that “administrative reforms will be a priority for the government” and will be “implemented through an appropriate body under the Prime Minister’s Office (PMO). BJP manifesto was skewed towards economic factors whereas the INC manifesto was more supportive of social inclusion. INC highlighted a detailed action plan for healthcare and aims to “provide universal and quality healthcare for all Indians.” The BJP manifesto claimed that it “accords high priority to health sector, which is crucial for securing the economy.”⁶

Highlights of INC/UPA Manifesto for 2014

1. Right on the first page it is written “Congress is your only choice.”
2. Economic agenda for growth and skill development.
3. Attack on BJP- It’s written “Secular Liberal Nationalism vs. Narrow-minded Communalism; Inclusive Democracy vs. Divisive Authoritarianism.”
4. Their report card of government.
5. “Pledge” to make India literate by 2019.
6. “Protection” of minorities from “majority.”
7. The ironic promise of “corruption free India.”
8. Promise of “Right to health.”
9. Improving sanitation. (What were you doing for last 60 years?)
10. Women and child protection and welfare.
11. Building the “best education system in the world.”
12. “Promoting sports” so that next time we can win at least a bronze in Olympics.
13. Foreign policy improvement by jumping in China’s lap.

Highlights of BJP/NDA Manifesto for 2014

1. Building 100 new cities, enabled with the latest in technology and infrastructure.
2. Ensuring shelter to everybody equipped with Electricity, Water, Toilets and Access.
3. Setting up a National Optical-Fiber Network up to the village level; and Wi-Fi zones in public areas.
4. Launching Diamond Quadrilateral project—of High Speed Train network (bullet train).
5. Launching a massive Low cost Housing programme to ensure that every family will have a pucca house of its own by 75th anniversary of independent India.

6. <https://www.livemint.com/Opinion/Xh9PUziIwC77ctV8qnpeeK/Opinion--A-new-vision-for-election-manifestos.html> (accessed Mar, 2019).

6. Strategically developing Labor-intensive sectors like textile, infrastructure, housing and Tourism.
7. Launching a national campaign for saving the girl child and educating her—Beti Bachao - Beti Padhao.
8. A high priority for SC, ST, OBCs and other weaker sections would be to create an ecosystem for education and entrepreneurship.
9. Ensuring proper utilization of natural resources of North East India and developing this region at par with Western region and empowering the DONER ministry.
10. Ensuring return of Kashmiri pandits to Jammu & Kashmir and establishing Good Governance in the State while abrogating article 370.
11. Ensuring a “Swachh Bharat” by Gandhiji’s 150th birth anniversary in 2019.
12. Exploring all possibilities within the framework of the constitution to facilitate the construction of the Ram Temple in Ayodhya.

“And Maharaj, here is a little analysis of both the Manifestos.”

After forming governments in 2004 and 2009, INC (UPA) brought 2014 manifesto and bringing new and old promises. In the 2004 manifesto, Congress promised to provide, “well being and welfare of all the workers in unorganised sector.” Later, the Unorganised Workers’ Social Security Act, 2008 was passed; however, the same remained to be implemented. In 2014 Congress promised to set up a Commission to explore the possibility of bringing all labor laws under one comprehensive law.

Congress also promised to provide health insurance for families living below poverty line in 2004, but after 5 years the manifesto said, “The Indian National Congress pledges that every family living below the poverty line will be covered by the Rashtriya Swasthya Bima Yojana over the next three years.” The 2014 manifesto had same promise in different tone.

With regard to Schedule Tribes and Schedule Castes, all three manifestos state that there would be an improvement in the conditions of *Dalits and Adivasis*. It was promised in 2004 manifesto that “Congress will create a national consensus on the issue of dalits and adivasis getting a reasonable share of jobs in the private sector.”⁷ In 2009 manifesto: “The Indian National Congress is deeply committed to pursuing affirmative action for scheduled castes and scheduled tribes in the private sector.” In 2014 manifesto: “Committed to creating a national consensus on affirmative action for SC’s and ST’s in the private sector.”

In relation to Minorities and Muslims, in 2004, Congress promised to “enact a comprehensive law on social violence in all its forms and manifestations, providing for investigations by a central agency, prosecution by Special Courts and

7. <http://www.indiatomorrow.net/eng/congress-manifestos-2004-to-2014-a-comparative-analysis> (accessed Mar., 2019).

payment of uniform compensation for loss of life, honour and property.”⁸ In 2009, the same was promised in different way and the 2014 manifesto states, “We will prioritize the passing of the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2013.”⁹

In relation to Corruption, the list of promises goes on. People were fuming with Congress prior to 2014 election due to unearthing of several corruption cases; however, it didn’t stop them from making their manifesto. In 2004 it was promised by the Congress that it’ll tackle the root causes of corruption and the generation of black money. It was not mentioned in 2009 manifesto and after coming out of several scams an anti-corruption law was passed. However, there are several doubts and questions on its effectiveness.

BJP / NDA formed government in 2014 but left a lot to be desired and completed in their Manifesto for 2014 General Elections. The year 2014, was the year of change when people sought change from Congress (UPA) government, and it was evident that by no means Congress is coming back into power for the third time. People were ready for a change in the name of Narendra Modi, here they created a narrative that there was no option available to them apart from him and he is the change. BJP likewise the Congress then had their own huge manifestos and a magnanimous sum spent on it to advertise it.

In relation to Jobs, perhaps one of the most debated issues in the last around five years, there are conflicting reports and claims about the record of the Modi government. In their manifesto they promised a total of 2 crore jobs a year. Amit Shah has maintained that all the 125 crore Indians cannot get jobs. He has said the answer to the issue of unemployment is self-employment. He claimed 9 crore people had got self-employment through the Mudra scheme and other government schemes such as Stand Up India and Startup India. In a different interpretation of employment, both PM Modi and Amit Shah have reiterated that even selling “pakodas” is also employment. It is better to sell “pakodas” or be a laborer than to be unemployed, they maintain¹⁰.

In relation to the issue of price rise, the BJP manifesto stated that their government would take strict measures to check up price rise and would set up special courts to stop hoarding black marketing. However, no special courts have been set up so far and the prices of most of the goods have risen sharply.

In relation to bringing Black Money, the BJP leaders had promised to bring back black money stashed in overseas banks and deposit Rs. 15 Lakh in the account of each Indian. While bringing back the black money remained a dream, BJP maintained that promise of deposit of Rs. 15 lakhs in each Indian’s bank account was only an election *Jumla* (Joke). The Opposition, particularly Rahul Gandhi, has

8. Congress manifesto of 2004, www.inc.in (accessed Mar, 2019)

9. Congress manifesto of 2009, www.inc.in (accessed Mar, 2019)

10. <https://www.indiatoday.in/4-years-of-modi-government/story/after-4-years-here-are-the-promises-modi-govt-could-not-keep-1242120-2018-05-26> (accessed Mar, 2019).

been taking a jibe at the BJP while asking people whether the Modi government has deposited Rs 15 lakh in their bank accounts.

In relation to Agriculture, the opposition has claimed that the suicide of farmers is on all high time during Modi's regime or has risen sharply. In its final budget the BJP on the demand of minimum support price plus 50% gave its own version which didn't satisfy anyone. The opposition also pointed out that the Modi government imported wheat and pulses without thought. Also adding fuel to fire, the opposition made a huge hue and cry about the amendment of the Land acquisition Bill 2013; to forcibly acquire the land of the farmers. Thrice the farmers have marched to Delhi and met the opposition party leaders as well. The APMC Act reforms and 50% profit over production costs have not yet been implemented. The Agriculture ministry has released a draft Model Contract Farming Act, 2018 to create a regulatory and policy framework for contract farming. But the Act still remains to be amended. Opposition has claimed that farmers are distressed in most parts of the country and suicides are still taking place. Though the BJP has won most of the Assembly elections held after the 2014 Lok Sabha polls, farmers' issue has been strongly raised in most of them. In 2019 election year, Modi government has initiated farmer's welfare scheme, where each farmer would get cash benefit for sowing crops.

In relation to Lokpal, despite being at the fag end of tenure, the Modi government has appointed Lokpal on March 21, 2019 i.e. at the fag end of its tenure.

“Maharaj, I am also providing you with additional analysis of the Manifesto of newly established Aam Aadmi Party, the ruling party in the National Capital Delhi, which had initially condemned all political parties to be liars and corrupts. But later on, successfully wooed the people with their unrealistically fabricated fancy manifestoes and failed miserably in achieving it.”

AAP's Manifesto for 2015 Assembly Election and failures: One may argue that both the Congress and the BJP are two sides of one coin or to put it better they are national political parties for a long time now, since failing to deliver on their promises is evident. But if we may speak of AAP (Aam Aadmi Party), they originally came from the public routes and it is expected of them to perform much better than the two national parties and other regional parties respectively. Yes, like every other party they also made number of promises but as it happened and which was not expected of them, they too failed in delivering them.

The government has shown a lack of planning and application in checking pollution and strengthening the public transport system. It struggled to add a single bus to the DTC fleet and drew flak for knee-jerk proposals such as cloud seeding and water dispersal through helicopters. Other ideas, such as setting up its own power plant and giving people the choice of their power supplier, were junked since they were not doable.

The government has promised to bring 3,000 buses by the end of year 2018, which includes 2,000 non-AC standard floor buses and 1,000 electric buses. But, this would still not fulfill the target of at least 10,000 buses, a measure on which it has fallen woefully short. Last-mile connectivity also remains poor.

The “Maili Se Nirmal Yamuna Revitalisation Project” has been marred by inordinate delays. No CCTVs and WiFi as promised has been provided on such scales. In regard to Swaraj Bill, the government called it the Mohalla Sabha Bill. The LG of Delhi did not approve the proposal. The Delhi Assembly passed the Jan Lokpal Bill in 2015 but it is pending Center’s approval. For Yamuna’s revival, AAP promised to develop a 5-km riverfront on Yamuna but the same is not fulfilled. Former Water Minister Kapil Mishra had announced to make Yamuna fit for bathing in 36 months. There is no concrete plan yet. Free Wi-Fi Project is yet to take off, no tender has been issued yet. In regard to Aam Aadmi’s Canteen Plan to open 100 canteens, offering low-cost food, one canteen was opened in LNJP Hospital on pilot basis, but it was shut down after two months. Plan to open 20 new Degree Colleges was junked. For Regularization of Illegal Colonies, AAP government has begun the survey to identify such colonies now. The government has built only few thousand community toilets out of the target of 2 lakh toilets. The Rs. 5,000-crore-plan to redesign 10 roads to decongest has never seen the light yet. The plan to build an east-west elevated corridor (Anand Vihar terminal to Peeragarhi) and north-south corridor (Wazirabad to Airport) yet to see light of the day. The promise of good education and education for all is not only unachieved, but, in most alarming manner, out of 1,55,436 failed children from classes 9th to 12th, Delhi Government readmitted only 52,882 students in government run schools. An NGO, “Justice for All” has challenged this decision of Delhi Government before the Delhi High Court and the same is pending.

“Maharaj, speaking of the issue of such manifestos, there are some major disadvantages one must look at:”

1. Lack of an alternative model: The promises made by the politicians should speak of an idea and that they are well ahead of their time. Sadly, Indian elections have fallen well short of this idea remain a combination of patronage politics, identity-based alliance, anti-incumbency and the ‘strongman’ politicians. The manifesto released by the many national parties did not vary in substantive difference in policies. All the manifestos speak about infrastructure development, governance, achieving high rates of economic growth, improvement in the manufacturing sector, and leveraging India’s information technology potential to enhance welfare delivery.¹¹ There is an overlapping issue here; it basically illustrates the absence of an alternative policy.
2. Absence of a good revenue roadmap: About the revenue there is little given about the political parties and their approach for a good fiscal policy for the benefit of the people. Neither any party nor the candidate does any exercise on how much it is going to cost them to fulfill their promises.

11. <http://blog.mumbaivotes.com/wp-content/uploads/2015/06/Scrutiny-of-Election-Manifestos.pdf> (accessed Mar, 2019)

3. Credibility of the data used in Manifesto: Many a times, election campaign has witnessed political parties making widespread use of constituency-wise data on economic and social indicator to attack each other. There data lacks information related to public and their needs. At most the data is fictitious and needs examination so that it reaches out to the candidate and his party making the manifesto.
4. Accountability: A very simple thing which needs attention in the manifesto, accountability is something which the candidature lacks in common parlance India. The content of manifestos should be looked as ‘promises’ that are made, on the basis of which the electorate either selects or rejects exercising their franchise for the candidate and prefer that document as the basis to measure their performance.
5. Compulsory and timely submission: In order to have a document on the basis of which performance of directly elected representatives can be tracked, there must be a document that needs to be published and submitted to the Election Commission.
6. Plan of action: As a representative of the public, the candidate must have a plan which is imperative, also he must ensure that the general will of the constituency is reflected in the manifesto. To look at the bigger picture a political manifesto has a great significance. The manifesto basically gives the voters an eye as to what the future is going to be like or can be. Therefore, the submission of the individual manifesto of candidates is extremely critical.”

Dhritarashtra said, “Sanjay, why does the vanity of the promisor is underrated for the blandishment and seduction. It is the artful inducement of the felon that earns him the penetration in people’s imagination. The onus of fallibility should be equally distributed to the accounts of gullible, ignorant and foolish who do not wish to apply their minds. Let me recite a *shloka* from Krishna for you.”

अधर्मं धर्ममिति या मन्यते तमसावृता |
सर्वार्थान्विपरीतांश्च बुद्धिः सा पार्थ तामसी || 32||

adharmam dharmam iti yā manyate tamasāvṛitā
sarvārthān viparītānś cha buddhiḥ sā pārtha tāmasī

—Krishna to Arjuna Chapter 18, Text 32, Shrimad Bhagavad Gita

Meaning:

That intellect which is shrouded in darkness, imagining irreligion to be religion, and perceiving untruth to be the truth, is of the nature of ignorance.

Sanjay said, “Agreed Maharaj, Krishna holds the people accountable for their ignorance. The modern India is full of mediums of education, information, news and discussion platforms. There is no excuse that one may fall for false and unrealistic promises. The poor should collaborate and discuss among

themselves along with their wise leaders the feasibility of the manifestos. The intellectual class, if it at all feels confused, they must strengthen their minds and open their awareness to judge well. Having said that, one must know that whosoever may come to power and no matter how fancy their manifesto is, one must always be ready that first this is a Jumlaa (Joke), second it is somewhere responsibility of the people as well to keep their candidates at a check so that they deliver on their promises. Earlier this year, Member of Parliament Varun Gandhi admitted that manifestos often go unread. He asserted that while manifestos should play a key role in the political dialogue, they instead often morph into mere intellectual exercises.¹² Be that as it may, one must not forget it is an idea that they propose it may not be necessary that all of this will be fulfilled at one go.”

Thereafter Sanjay again quoted Krishna as follows,

उद्धरेदात्मनात्मानं नात्मानमवसादयेत् |
आत्मैव ह्यात्मनो बन्धुरात्मैव रिपुरात्मनः || 5||

uddhared ātmanātmānam nātmānam avasādayet
ātmaiva hyātmāno bandhur ātmaiva ripur ātmanah

—Chapter 6, Text 5, Shrimad Bhagavad Gita

Meaning:

Elevate yourself through the power of your mind, and not degrade yourself, for the mind can be the friend and also the enemy of the self.

Dhritarashtra said, “Flimsy promises bring emotive and occasionally genuine damages to people. This setback is unrepairable, unjustifiable and unethical. The charlatan preys on the fools just as the lion preys on the weak boars. The able minds cannot easily be deceived, manipulated, induced, convinced or utilized by the cunning Politician. Mind is an intrinsic tool gifted to mankind along with a consciousness and conscience. One must elevate and strengthen oneself by self-development, hard work, openness, awareness and meditation. I humbly announce my whole-hearted concurrence with this verse of Krishna, one must elevate through one’s power of mind. Do not be the slave but become its master.”

12. <https://www.livemint.com/Opinion/Xh9PUziIwC77ctV8qnpeeK/Opinion--A-new-vision-for-election-manifestos.html> (accessed Mar, 2019).

CHAPTER 15

THE TYPEWRITER OF ELECTION COMMISSION

Election Commission! Is it an ornamental Gatekeeper?

Sanjay said “Maharaj, a majority of Indians say that Election Commission of India is the typewriter that keeps on writing and publishing rules, code of conducts and guidelines. The declarations filed to them by the candidates may not be a complete truth but ECI cannot do much about it. As we all know that the notion of free and fair election is something which should be taken seriously. This Election Commission is accountable for holding the elections in the country under certain rules and provisions. The election commission sets out a set of guidelines issued to regulate political parties and candidates prior to elections as per the Article 324 of the Constitution, which gives the election commission the power to supervise elections to the Parliament and the Legislature.

For holding free and fair election, EC does what all it can do, it has framed Model Code of Conduct. The Model Code of Conduct is operational from the date when the election schedule is notified till the date results are announced. The Model Code of Conduct is a pivot of election practices in the Indian democracy. As already said, the Model Code of Conduct was first inducted in 1960 in state assembly elections in Kerala¹ and followed by the Lok Sabha elections of 1962 as well. In 2013, the Supreme Court directed the Election Commission to include guidelines regarding election manifestos, which it has included in the MCC for the 2014 general elections.² Added in 2013, these guidelines prohibit parties from making promises that exert an undue influence on voters. The guidelines further suggest that manifestos should also indicate the means to achieve promises.”

“Sanjay, your intent of declaring the Election Commission as inept, inactive, ineffective, handcuffed, economized and conserved must be supported by

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1. <https://www.thenewsminute.com/article/how-eci-hopes-enforce-legally-weak-model-code-conduct-through-app-90927> (accessed Mar, 2019).
 2. <https://www.prsindia.org/hi/theprsblog/model-code-conduct-and-2014-general-elections> (accessed Mar, 2019).

facts and evidence,” Maharaj chuckled, “I must speak the language of the era we are attempting to gaze. Prove your case in my court. Is the Model Code of Conduct not legally binding on the Political Parties and Contestants? Tell me Sanjay, what do you see?”

“No Maharaj, the MCC is not enforceable by law. Nevertheless, certain provisions of the MCC may be enforced through invoking corresponding provisions in other statutes such as Code of Criminal Procedure, 1973, the Indian Penal Code, 1860, and Representation of the People Act, 1951. The Election Commission has contended against making the MCC legally binding; stating that elections must be concluded within a reasonably short time (close to 45 days), and judicial proceedings classically take longer, therefore it is not reasonable to make it enforceable by law. On the other hand, in 2013, the Standing Committee on Law and Justice, Personnel, Public Grievances, recommended creating the MCC legally binding. In a report on electoral reforms, the Standing Committee perceived that most provisions of the MCC are enforceable through conforming provisions in other statutes. It acclaimed that the MCC be made a part of the Representation of the People Act, 1951.³ There are a plethora of news articles pointing at the critical capabilities of Election Commission and raising concerns too. Maharaj, I would explain my understanding out of few such media reports.”

Political parties may face action for violating MCC: EC, November 28, 2013⁴

Abating to act on petitions by the BJP and Congress seeking each other’s derecognition for repetitive violations of MCC and use of inordinate language by party leaders, the Election Commission on November 28, 2013 set all parties on notice and notified of action in case they statically failed to confine themselves.

Discerning the “tumbling levels of political sermon witnessed during the enduring elections...are a matter of serious apprehension and profound distress,” the Commission said the torrent of complaints and counter-complaints it had acknowledged so far specified the mouthing of offensive and provocative statements calculated to cause resentment. Also, abusive and intemperate language used by party leaders had contravened the limits of politesse, and personal attacks on political rivals intensified differences between parties, besides crafting a divide on religious and communal lines.

“The seriousness of the situation can be evaluated by the fact that the Commission is detained of petitions from two national renowned parties seeking each other’s gratitude for continual violations of the model code under Para 16A of the Election Symbols (Reservation and Allotment) Order, 1968” noted the Election Commission.

3. <https://www.prsindia.org/hi/theprsblog/model-code-conduct-and-2014-general-elections> (accessed Mar, 2019).
4. http://timesofindia.indiatimes.com/articleshow/26540483.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (accessed Mar, 2019).

The petitions had followed discrete complaints to the Commission in contradiction of Congress vice-president Rahul Gandhi and BJP prime ministerial candidate Narendra Modi for their communal/intemperate remarks during campaigning. The Election Commission had instituted them guilt-ridden of violating the model code and, in separate orders, condemned of their remarks and counseled them to be more circumspect about their exclamations.

While illuminating that it acknowledged the fundamental right of freedom of speech and expression, the Commission in its broad-spectrum order on November 28, 2017 piercing that such a right was “not absolute and is to be implemented in such a manner that it does not exceed, inter alia, the boundaries of politesse and morality or disrupt public order or amount to defamation or give agitation to an offence ordained in clause (2) of Article 19 of the Constitution.”

Recapping that the model code of conduct discouraged parties from resorting to individual attacks and making communal appeals, the Commission said that however it did not intend to take action on the BJP’s and Congress’s complaints, it “desires to put all political parties on notice that any recurrent violation of MCC and use of abusive and inordinate language may invite against the defaulting parties.”

EC is toothless body: PMK—Monday, June 20, 2016⁵

In the course to the Assembly Elections in Tamil Nadu, Anbumani Ramadoss, the 47-year-old medical doctor-turned-politician had promised the electorate a good life which includes free education, free health care, livelihood for at least one member of each family and a state-of-the-art public distribution service. However his campaign meetings were rated as most lively, when the results were declared on May 19, he and his party PMK fell by the wayside waning to register a single seat in any of the 234 constituencies in the State.

“The results substantiated beyond doubt that the Election Commission of India is a powerless and toothless body incapable of taking any disciplinary action against parties which practice money and muscle power to win elections.”

The ECI was obligatory to rescind the election process in two Assembly constituencies, Aravakurichi and Thanjavur following confiscation of more than Rs100 crore and gifts from the houses of the DMK leaders and AIADMK which were meant to bribe voters. The date for new notification is yet to be decided by the Commission in spite of appeals by the DMK to hold the election at the earliest.

“The Election Commission should have the power to diagnose and deregister the stumbling parties. The Model Code of Conduct does not have any legality and ECI cannot make a single rule by itself. The Representation of People’s Act also does not have any teeth. Under these circumstances, what is the *raison’detre* for such a body?”

5. <https://www.dailypioneer.com/2016/india/ec-is-toothless-body-pmk.html> (accessed Mar, 2019).

ECI was asked to file cases against the candidates under Section 171 of the Indian Penal Code. “If distribution of money by him or his associates is definite, the candidates should be disqualified, which will entail that they cannot contest any election for the next 15 years.”

It’s pointless to contest elections in Tamil Nadu unless the ECI implement the reforms. “The Union Government itself could modify some of the rules. Chief among the reforms should be to authorize the ECI to yield immediate disciplinary action and illustrate red card to those who violate the rules. Another essential decision should be to ban the opinion polls, as it has no basis in India.”

EC presages political parties of ‘severe action’ for violating Model Code of Conduct, January 10, 2017⁶

The Election Commission presaged all political parties that it will not remain a “mute spectator” and comments aimed at differentiating communities will invite serious repercussions.

The poll panel emphasized that it will safeguard compliance with the Supreme Court order excluding candidates from seeking votes in the name of religion in the assembly polls that commenced in five states from February 4.

“The Commission will not remain a mute spectator if the provisions of the model code of conduct or law are violated and no one can do it with latitude.” It counsels the Commission will “take strict actions” for violations if candidates or parties are found using statements that can create resentment between different sections on the basis of religion.

Election commission’s remarks “have (the) effect of endorsing hostility between classes of society, and prima facie violates the model code of conduct which came into power on January 4 subsequent to announcement of assembly polls in five states, including Uttar Pradesh.”

The Congress and other political parties have alleged Sakshi Maharaj, who in Meerut has urged all political parties to come together to structure “population control” laws of fanning communal strain ahead of the seven-phase polls in the state.

Muslims form a sizeable mass of the electorate in the country’s most populous state and are a significant factor in many constituencies.

BJP said it was not the party’s outlook, Sakshi Maharaj later appealed he was misquoted.

Uttar Pradesh goes to polls in February and the BJP is sealed in a tough fight with regional contenders Bahujan Samaj Party (BSP), Samajwadi Party (SP) and the Congress.

6. <https://www.hindustantimes.com/india-news/election-commission-warns-political-parties-of-stern-action-for-violating-model-code-of-conduct/story-PUCTMNFiuJceOM316G8wNN.html> (accessed Mar, 2019).

Election Commission, a toothless tiger: BJP MP Varun Gandhi—October 14, 2017

The Election Commission has by no means derecognized any political party for not submitting poll expenditure information within the postulated time and entitled it as “toothless tiger.”

“One of the major problems of the Election Commission which is really a toothless tiger is Article 324 of the Constitution that controls and administers elections. But does it really do that? It does not have the authority to file cases once the elections are over. It has to go to the Supreme Court to do so.”

“Although all political parties file late returns, only one political party, belongs to the late P.A. Sangma, [National People’s Party] was derecognized for not filing returns on time. The EC repealed the same a day after it filed the expenditure report.”

Congress declares violation of Model Code of Conduct in Telangana⁸

The Congress has submitted a representation to the Chief Secretary S.K. Joshi on the issue on October 1, 2018 for the coming Legislative Assembly polls as hoardings of government schemes carrying pictures of caretaker Chief Minister K Chandrasekhar Rao and ministers are seen at several locations in the city.

N. Uttam Kumar Reddy, the president of Telangana Pradesh Congress Committee (TPCC) held a meeting with the party’s state office bearers and additional senior leaders, and alleged that government advertisements with pictures of Mr. Rao and ministers have not been removed from the state-run Road Transport Corporation (RTC) buses.

The Chief Electoral Officer (CEO) office has not taken action on the purported violations of the Model Code of Conduct.

A representation was also submitted to the chief electoral officer (CEO), where CEO Rajat Kumar said the petition from the party has been received.

Election Commission was asked for guidance.

As per the directives of AICC, the TPCC president also said, Congress would be forming “Jan Sampark Abhiyaan” (campaign to contact people) from October 2 to October 10 as part of the 150th birth anniversary celebrations of Mahatma Gandhi.

Mr. Reddy said further paying floral tributes to Mahatma Gandhi on October 2, 2018, the Congress leaders would raise party flags in all Assembly and Mandal Headquarters as well as conduct door-to-door campaign for a week across the state.

7. <https://www.thehindu.com/news/national/election-commission-a-toothless-tiger-varun/article19859194.ece> (accessed Mar, 2019).

8. <https://www.ndtv.com/telangana-news/congress-alleges-violation-of-model-code-of-conduct-in-telangana-1925315> (accessed Mar, 2019).

Terminating TRS criticism against Congress' proposed alliance with other parties (TDP, TJS and CPI) describing them as "Telangana defectors," Mr. Reddy alleged that the TRS president was a "Telangana Drohi (betrayer)" on multiple counts And that Mr. Rao deceived SCs, STs and other sections by not implementing the promises made to them.

EC's inspection of deleted voters' names a farce: AAP –November 18, 2018⁹

The Aam Aadmi Party(AAP) slammed the Election Commission (EC) for its conduct to check deleted names from electoral rolls; which was precisely correct or not but the assessment was a "farce and a comprehensive joke to the people of Delhi."

Arvind Kejriwal, Delhi Chief Minister had approached the poll panel after AAP's South Delhi Lok Sabha in-charge Raghav Chadha stated that about one lakh voters' names have been released from the South Delhi parliamentary constituency single-handedly at the direction of the Bharatiya Janata Party (BJP).

"At present, this matter is not just destined by any political party. This can have serious consequences for the democracy of Delhi."

"We want a comprehensive, complete and accurate list of deleted voters after 2015 assembly elections."

"Sanjay, war-tactics, diplomacy, election-tactics, political-tactics, public handling-tactics, administration-tactics, media-tactics, are extremely important to deal with the matters of such gigantic, complex, disparate and voluminous democratic body. I see that Election Commission has a mammoth administrative task during Election Phase. However, the limitation of exercising its authority cripples the outcome of its orders. Sanjay, even sanctioning alone isn't sufficient. My younger brother Vidur was the Minister in my court. If my memory serves me well, there wasn't a slightest issue that under his jurisdiction couldn't be maneuvered. Vidur and I along with my diseased brother Pandu were imparted the knowledge of all sort of tactics so that we could govern and administer our beautiful Hastinapur coherently. I being blind was subjugated to the mere decoration of the thrown and the heritor of the crown. Vidur practiced the principle of *Saama-Daam-Dand-Bhed* in the court and often brought to my attention the trivia of the contentions."

"Indeed Maharaj, it's a matter of being empowered to handle certain issues and seems like just a day before when the tacts of Hastinapur had stooped to the most undignified, inhuman, unjust and immoral manners."

Maharaj observed a momentary silence at Sanjay's jibe.

"Sanjay! The acts of unscrupulously notorious clans are conveniently noticeable. Yet, I have no qualms. We had no Avatar of God with us, to play

9. https://wap.business-standard.com/article-amp/news-ians/ec-s-inspection-of-deleted-voters-names-a-farce-aap-118111800473_1.html (accessed Mar, 2019).

the koot-niti at his divine best. A humanly best can deteriorate in the desperation of attaining victory from the divine opponent. It is the subjugation of conscience that one doesn't see the sides of both contenders with equal fairness, equitability and transparency. The Srimad Bhagavatam 7.5.19 elaborates on *Katu-stayam* - the four diplomatic principles that even Bhakt Prahlad was well accustomed of Lord Krishna approved of his favoritism to Bhakt Prahlad with his following Shloka”:

प्रह्लादश्चास्मि दैत्यानां कालः कलयतामहम् |
मृगाणां च मृगेन्द्रोऽहं वैनतेयश्च पक्षिणाम् || 30||

prahlādaśh chāsmi daityānām kālaḥ kalayatām aham
mṛigāṇām cha mṛigendro 'ham vainateyaśh cha pakṣhiṇām

—Krishna to Arjuna, Chapter 10, text 30, Shrimad Bhagavad Gita

Meaning:

I am Prahlad amongst the demons; amongst all that controls I am time. Know me to be the lion amongst animals, and Garud amongst the birds.

Explanation:

Prahlad was born as the son of the powerful demon king, Hiranyakashipu. However, he turned out to be one of the greatest devotees of Lord Vishnu. Thus, amongst the demons, Prahlad best reflects God's glory. Time is the great subduer that wears down even the biggest and mightiest entities of the universe. The majestic lion is the king of the jungle, and amongst the animals the power of the Lord indeed reveals itself in the lion. Garud is the divine vehicle of Lord Vishnu, and the greatest amongst the birds.

“O Sanjay, Lord Krishna's absolute affection for Devotee Prahlad only reflects that Maharaj Prahlad was aligned with the celestial element of Krishna. They both were divinely adroit in all four types of tactics,

SAAMA, the art of pacifying, motivating, non-violent inducement

DAAM, to acquire the purpose by paying the price or providing incentive for the service

BHEDA, creating division or distinction in the group of opposite clan, instigating discord

DANDA, punish if the person or faction fails to achieve your goals”

“Maharaj, please accept my apologies to intervene in your arguments. I plead that Lord Krishna's wisdom is immense and cannot be questioned.”

“Sanjay, I am handicap, down trodden, separated from all my beloveds, defeated from the war of Kurukshetra, fragile, greatly aged, heavily sinned and unsure of afterlives. How is that, I may even, put a fraction of doubt on Lord

Krishna's actions or wisdom. The Lord exercised the full *Saama-Daam-Bheda-Danda* on my faction to attain harmony and save our world grand destruction by *Adharma*.

SAAMA: When Krishna said to my son "O Duryodhana! Pandavas have Dharma on their side. They lived 13 years of their lives in exile as concurred by the elderly, ministers, your uncle and you. Now you must willingly and deferentially return their portion of kingdom back. They may peacefully condone the many atrocities you have conducted on them. Heed, take action."

DAAM: When Duryodhana had ignored the counsel of my Uncle Bhishma and my brother Vidur and turned a deaf ear to Lord Krishna's proposition. Krishna had an alternative proposal for the greater good. Lord spoke to my son again "O Duryodhana! If you are not willing to give away the half of the kingdom, at least give 5 villages to Pandavas. Still you shall secure your upper hand and satiate your ego. The war can be averted."

BHEDA: Upon getting the second proposition rejected, Lord Krishna decided to create split between my son Duryodhana and his closest ally Karna; Krishna said to Karna, "O Karna! You are eldest son of Kunti. Come with me. Pandavas shall worship you. Yudhistira shall be your minister. Bhima shall be your commander. Arjuna shall be your charioteer. Nakula and Sahadeva shall be your body guards. You shall be KING."

DANDA: The discord induced by Lord Krishna couldn't create actual rift between Karna and Duryodhana but it broke the spirit of Karna who was my son's prime ally. The danda tactic, is the last course to be exercised, hence we witnessed the epic war of Mahabharata that slained the history of mankind. The Kalyuga and all the coming ages wouldn't forgive or forget us for the sins that we have created."

Thereafter, king Dhritarashtra attained silence.

"Forgive me Maharaj, if I evoked your disturbed memories." Sanjay observed that Maharaja looked composed enough to initiate the Kalyugi discussions. "Maharaj, The Election Commission of India, seems neither fully equipped nor fully empowered. The law is not even close to suggest the implementation of effective measures to impact these Politicians. Hence ECI remains, what most people call it, a toothless tiger or an Ornamental gatekeeper.

Maharaj, here is the law and other information related to ECI."

Election Commission

Election Commission (EC) is an independent body of office, made by the Constitution, which is mainly in charge of conducting elections in our country. The Election Commission is a body that stands for integrity and excellence and the ideas of equality, justice, fairness and rule of law. But Election Commission mostly appear to provide an impression that it would be satisfied if the elections

would be conducted in a peaceful manner, irrespective of the fact, whether it is conducted in free and fair manner.

There are number of cases of money power and muscle power being used in the elections and in most of cases, Election Commission has remained silent. This weak approach of the Election Commission has really emboldened the criminals and corrupt persons to enter into electoral fray.¹⁰ The Article 324 of the Constitution of India basically empowers the Election Commission to exercise its powers to prevent criminals and corrupt persons from entering politics.

There are several functions of the Commission which include preparation of electoral rolls, superintendence, direction and control of elections to Parliament and State Legislatures, recognition of political parties and allotment of symbols to them and also conducting elections to offices of the President and the Vice-President. The Election Commission was set up in 1950 with only one officer i.e. The Chief Election Commissioner, appointed by the President. But in 1993, it grew and included two more election commissioners. Here, the Chief Election Commissioner is the head of the body. All election commissioners hold the office for six years or till they are 65 years old, whichever is earlier. Yet, they can still step down from office or be removed any time before that. There are two Election Commissioners to help the Chief Election Commissioner of India.

Electoral Reforms in India¹¹:

- (i) **Reform against Misuse of caste and religion for electoral gains:** The use of religion, caste, community, tribe, and any other form of group identity for electoral gain or for gathering political support should not be allowed and the Representation of the People Act, 1951, be suitably amended to give the Election Commission powers to take deterrent actions against those candidates and political parties who resort to it, such actions should include, but not limited to, disqualifying candidates from contesting elections and de-registering the offending political parties. Political parties should also not be allowed to use overtly religious, caste, community, tribe, and other such expressions and words in their names.
- (ii) **NOTA (None Of The Above):** “None Of The Above,” or NOTA for short, also known as “against all” or a “scratch” vote, is a ballot option in some jurisdictions or organizations, designed to allow the voter to indicate disapproval of all of the candidates in a voting system. It is based on the principle that consent requires the ability to withhold consent in an election, just as they can by voting “No” on ballot questions.¹²

10. <https://www.civildserviceindia.com/current-affairs/articles/powers-of-election-commission-under-article-324.html> (accessed Mar, 2019)

11. Electoral Reforms in India - Issues and Reforms, https://adrindia.org/sites/default/files/Electoral_Reforms_in_India_Issues_and_Reform.pdf (accessed Mar, 2019).

12. <https://www.thehansindia.com/posts/index/Young-Hans/2017-09-30/Understanding-NOTA/330076> (accessed Mar, 2019).

The Election Commission of India told the Supreme Court in 2009 that it wished to offer the voter a “none of the above” option on ballots, which the government had generally opposed. Then People’s Union for Civil Liberties, a nongovernmental organization, filed a public-interest litigation statement in support of this. Thus, this option was introduced in the electronic voting machines in India after the landmark judgment delivered by the Supreme Court (the apex court in the Indian Judicial system) in *People’s Union for Civil Liberties v. Union of India*¹³ (2013)

The main advantage of the incorporation of NOTA is upholding and recognition of the right of the citizens to not cast a vote while maintaining secrecy during such abstinence. The true spirit of democracy lies in the right of the citizens to be able to choose their representatives periodically. Obviously the ends of democracy can be met only when majority of the citizens exercise this right. However, at the same time it must be ensured that the citizens are not compelled to choose the best from the worst. This is exactly what NOTA seeks to achieve. The Election Commission also clarified that even though votes cast as NOTA are counted, they are considered as invalid votes so they will not change the outcome of the election process. They are not taken into account for calculating the total valid votes and will not be considered for determining the forfeiture of security deposit. In the 2014 general election, NOTA polled 1.1% of the votes, counting to over 6,000,000.

- (iii) In July, 2013, the Supreme Court of India in Lily Thomas ruled that Parliamentarians and State Legislators who were convicted of serious crimes, meaning carrying a jail term of two years or more would be barred from contesting elections. The court struck down Section 8 of the Representation of the People Act which allowed convicted members of Parliament and Legislative Assemblies to continue in office while their appeals journeyed through courts often for indefinite periods. The Government, backed by support from almost all political parties, had introduced a bill in Parliament to override this Supreme Court judgment and then passed the ill-fated Ordinance which now stands withdrawn.
- (iv) **Limits on poll expenses:** To get rid of the growing influence and vulgar show of money during elections, the ECI has made many suggestions in this regard. The Commission has fixed legal limits on the amount of money which a candidate can spend during the elections campaign. These limits have been revised from time to time and the same have been detailed in a previous chapter. The contestants are required to give details of expenditure within 30 days of the declaration of the election results. However, political parties do not adhere to the financial *Lakshman Rekha* (limits) as huge amounts are spent by parties under the garb of their supporters.

13. *People’s Union for Civil Liberties v. Union of India*, (2013) 10 SCC 1 : 2013 (12) SCALE 165.

- (v) **Regulating political parties:** It is a desirable objective to promote the progressive polarization of political ideologies and to reduce less serious political activity. The Election Commission had progressively increased the threshold criterion for eligibility for recognition so that the proliferation of smaller parties is discouraged. There are more than 1,600 political parties registered with the ECI, however, only a few ever contest elections. ECI is authorized to de-register such parties, which do not contest elections.
- (vi) **Political reforms:** Some of the political party reforms are:
 Institutionalization of political parties: Need for a comprehensive legislation to regulate party activities, criteria for registration as a National or State party.
 Structural and organizational reforms: Party organizations (i.e. National, State and local levels) and Inner party democracy (like—regular party elections, recruitment of party cadres, socialization, development and training, research, thinking and policy planning activities of the party).
 Party system and governance: Mechanisms to make parties viable instruments for their good governance.
- (vii) **Use of scientific and technological advancements:** The Election Commission of India has been trying to bring improvements in election procedures by taking advantage of scientific and technological advancements. The introduction of EVMs with VVPAT machines is one of the steps in that direction. The Election commission has recommended the introduction of electronic voting machines with a view to reducing malpractices and also improving the efficiency of the voting process.

Main Unresolved Issues in Indian Electoral Politics Where Election Commission Has Grossly Failed:

- (i) **Money Power:** Money plays a central role in every election. Election requires money not only to distribute it illegitimately to influence voter. According to studies the 2014 general election was the most expensive election in Indian history and 2019 election is being perceived to be the costliest election of the world, where more than Rs. 30,000 crore is expected to be spent by parties and candidates as against the perceived figure of Rs. 20,000 crore in 2014 election. Over Rs. 313 crore in cash was seized by Election Commission since during 2014 General Election period. Election Commission appointed surveillance and flying squads intercepted cash, liquor and narcotics as part of the central poll body's directive to check black money use and illegal inducements to the electorate. Now Election Commission has created a Multi Department Intelligence Committee to keep check on the illegal spendings by parties and candidates. Only time would tell, how effective the new measures taken by Election Commission would prove.
- (ii) **Muscle Power:** Violence, pre-election intimidation, post election, victimization, most of the riggings of any type, booth capturing both silent

and violent are mainly the products of muscle power. These are prevalent in many parts of the country like West Bengal, Bihar, Uttar Pradesh, Maharashtra etc. and this cancerous disease is slowly spreading to south like in Andhra Pradesh and other states. By using of violence, the criminals are efficiently able to achieve success at elections.

- (iii) **Criminalization of Politics:** During the election period, newspapers are usually full of information about the number of criminals in the field sponsored by every party. The reason of the criminals behind entrance to politics is to gain influence and ensure that cases against them are dropped and not proceeded with. They are able to make it big in the political arena because of their financial clout. Political parties tap criminals for fund and in return they provide them with political patronage and protection. Rough estimates suggest that in any state election 20% of candidates are drawn from criminal backgrounds. Mafia, dons and other powerful gangsters have shown that they can convert their muscle power into votes often at gun point. Voters in many parts in the country are forced to vote for the local strongman. Tickets were also given to the candidates with criminal records even by the national parties. All these instances reported time and again show that democracy in India has largely failed to be what it was meant to be because the electoral system has been perverted. And this is the main reason for corrupt politics.

Criminalization of politics has also become an all-pervasive phenomenon. At one time politicians hired criminals to help them win elections by booth capturing. Today, the same kinds of criminals have begun entering parliament and the state legislature.

The major issues faced generally are-

- (i) Booth capturing
- (ii) Intimidation of voters
- (iii) Buying voters
- (iv) Tampered electoral rolls
- (v) Large-scale rigging of elections
- (vi) Abuse of religion and caste in the enlistment of voters.

Judicial Review

The decisions of the Commission can be challenged in the High Court and the Supreme Court of the India by appropriate petitions. By long standing convention and several judicial pronouncements, once the actual process of elections has started, the judiciary does not intervene in the actual conduct of the polls. Once the polls are completed and result declared, the Commission cannot review any result on its own. This can only be reviewed through the process of an election petition, which can be filed before the High Court, in respect of elections to the Parliament and State Legislatures. In respect of elections for the offices of the President and Vice President, such petitions can only be filed before the Supreme Court.

“Maharaj, I would also like to highlight the point, that sometimes, we get some great spirited Arjunas on the chair of Election Commission of India, and then, irrespective of the limitations and non-authoritative role of the ECI, the election commission gets whatever it’s needed to be done. I would like to mention the name of T. N. Seshan and others for the same. Here is the relevant information followed by a Judicial case decided by Supreme Court of India.”

Election Commission is often touted as a Toothless Tiger but there was a moment when things were Ram Bharose with it, in the words of H.S. Brahma,¹⁴ an ex-CEC but then came a man whose penchant for megalomania led to the Independent publishing that the “Indian Politician as the jokes go, fear God himself or T.N. Seshan, not necessarily in that order.”¹⁵ The 90s had a T.N. Seshan notoriously famous for eating politicians for breakfast. Cometh the hour and cometh the man, Seshan rose to his callings as an Election Commissioner by understanding the inside out of the Indian Constitution. He came with stricter implementation of the Code of Conduct, redrew it and saw to it being implemented. The large scale bullying and bribing were cleared by sending in police or security forces to tackle them at the booths, disallowing candidates from bringing voters to the booth and ensuring that Photo ID was made mandatory. The effective usage of the machinery at his disposal and a no nonsense outlook which Seshan carried made the World realize about the importance of Election Commission and carried the cleanest elections of India. There were caps on spending, loudspeakers, big hoardings, heckling voters, caste-based votes were banned and an entirely different era ushered in. The trajectory of the Election Commission under T.N. Seshan shows that the effectiveness of institutions is highly dependent upon the personalities at their helm. The same institution may have very different attitudes based upon its chief. In 2002, James Michael Lyngdoh took the brave step of refusing to have early polls in Gujarat for which certain remarks were made on him by the then incumbent Chief Minister of Gujarat, Narendra Modi. Lyngdoh kept his feet and didn’t cede to the demand for the early elections. James Michael Lyngdoh was succeeded by T.S. Krishnamurthy in 2004. T.S. Krishnamurthy was another man who drew attention because of his quest to introduce electoral reforms. He advocated a ban on opinion and exit polls, though this wasn’t received favorably by the political class; another one of his quests being the introduction of NOTA which found its way post the ruling by the Apex Court. In 2012, V.S. Sampath was appointed as the CEC, his tenure was quite memorable for his propagation of the message that the Commission would not bow down to anyone and its instructions are to be followed.

14. <https://theprint.in/india/governance/a-birthday-tribute-for-tn-seshan-the-only-man-alongside-god-whom-indian-politicians-feared/163893/> (accessed Mar, 2019).

15. India’s scourge of money, muscle and ministers, Tim McGirk, *The Independent Sunday*, (accessed Mar, 2019)

Since the time of T.N. Seshan, most of the Election Commissioners have done great works. More statutory power and optimal exercise of such power is required to be done by Election Commission of India to change its image from Toothless Tiger to “Roaring Tiger.” The incumbent Chief Election Commissioner of India Mr. Sunil Arora is now tasked to hold 2019 General Elections in April-May, 2019, which would be the biggest Election of the World as around 90 crore voters would participate in this democratic exercise. The elections would be held with EVMs connected with VVPAT machines.

In the famous case of *T.N. Seshan, Chief Election Commissioner of India v. Union of India and Ors*¹⁶ (1995), the Hon’ble Supreme Court of India has held:

- “1. Article 324(2) and (5) contemplate statute for appointment of Election Commissioners (EC) and for their conditions of service.
2. Impugned ordinance filed could not be challenged as unconstitutional since they were expressly permitted by Clauses (2) and (5) of Article 324 of Constitution.
3. Once provision for constitution of multi-member Commission is unassailable, provisions incidental thereto cannot be challenged.
4. Failure to consult Chief Election Commissioner (CEC) before appointments of ECs did not vitiate appointment as Article 324 of Constitution nowhere stipulates that before ECs are appointed, CEC will be consulted.
5. Fact that present CEC had taken certain decisions not palatable to ruling party at Centre, it was not permissible to jump to conclusion that that was cause for Ordinance and appointments of EC’s.
6. Decision to constitute multi-member Commission was not actuated by malice.
7. ECs could not be thought of as pliable persons being appointed with sole object of eroding independence of CEC.”

“Sanjay, let’s bring forward the names of all the Election Commissioners of India and pay them respect for such performing such critical role in the Indian Democracy. These people hold the responsibility not just for applying Electionomics for correcting election procedures heartlessly but with the vision of providing a better society for the future generations.”

“Indeed Maharaj, Tathasthu!”

Refer Table 19.

16. *T.N. Seshan, Chief Election Commissioner of India v. Union of India and Ors*, (1995) 4 SCC 611.

TABLE 19 CHIEF ELECTION COMMISSIONERS OF INDIA SINCE 1990

T.N. Seshan	1990	1996
M.S. Gill	December 12, 1996	June 13, 2001
James Michael Lyngdoh	June 14, 2001	February 7, 2004
T.S. Krishnamurthy	February 8, 2004	May 15, 2005
B.B. Tandon	May 16, 2005	June 29, 2006
N.Gopaldaswami	June 30, 2006	April 20, 2009
Navin Chawla	April 21, 2009	July 29, 2010
S.Y. Quraishi	July 30, 2010	June 10, 2012
V.S. Sampath	June 11, 2012	January 15, 2015
Harishankar Brahma	January 16, 2015	April 18, 2015
Nasim Zaidi	April 19, 2015	July 5, 2017
Achal Kumar Jyoti	July 6, 2017	January 22, 2018
Om Prakash Rawat	January 23, 2018	December 1, 2018
Sunil Arora	December 2, 2018	Incumbent

CHAPTER 16

ELECTION PETITIONS

Sanjay recited the *shloka* when Krishna disclosed his cosmic appearance to Arjuna and explained his omnipresence in the world, not just in matter but all kinds of conducts.

दण्डो दमयतामस्मि नीतिरस्मि जिगीषताम् ।
मौनं चैवास्मि गुह्यानां ज्ञानं ज्ञानवतामहम् ॥ 38॥

daṇḍo damayatām asmi nītir asmi jigīṣhatām
maunaṁ chaivāsmi guhyānām jñānaṁ jñānavatām aham

—Lord Krishna to Arjuna, Chapter 10, text 38,
Shrimad Bhagavad Gita

Meaning:

I am just punishment amongst means of preventing lawlessness, and proper conduct amongst those who seek victory. Amongst secrets I am silence, and in the wise I am their wisdom

“Sanjay, you have tried my passiveness by not disclosing the matters of Sanctions and Punishments in the scenario of Elections. You must not keep me waiting now. I as the King, reckon, reprimand and command as the first instinct. It appears that in democracy, they come at the end. Show me the doors of the court rooms, through which this is achieved and suggest me some important incidents.”

“Maharaj, indeed, as lord Krishna says, he engrained even in punishment. Even rhetorically, the punishments and sanctions are only there to encourage proper conduct. Hence, a key aspect of Electioneering. Your grasp is proper, when you say, courts are the door to sanction. Here are the details...”

Election Petitions

Election petition means any dispute with regard to General election and State assembly election and all such election disputes can be adjudicated only through Election petition and Election petition can only be filed in High Court (which is also known as Election Tribunal).

In *Ajay Makan v. Adesh Kumar Gupta*¹ (2013), the Supreme Court recently stated that election petition is not a common law proceeding but it is a creature of the statute.

Provision of Election Petition:

Section 80 of Representation of Peoples act, 1951 clearly stated that no election dispute can be bought in question except by an election petition presented in Chapter IV (Part II) of Representation of peoples act, 1951. Thus, election can be called in question only through election petition in accordance with the provisions of Representation of Peoples Act, 1951 and read with Article 329 of the Constitution of India.

High Court (Election Tribunal):

The important principles regarding the jurisdiction of High Courts in respect of election matters and their powers to entertain election petitions are stated as follows:

- (i) The constitutional provisions and the Representation of People Act clearly stated that there is a remedy for every wrong done during the election process. The remedy in respect of electoral process is not extinguished by virtue of Article 329(b) of the Constitution. The only thing it does is that the remedy is postponed to the post-election stage.
- (ii) The reason for the postponement of the remedy in respect of wrong done in connection with the elections is postponed to the post election stage because of a vital reason. Having regard to the important functions which the Legislatures have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be conducted as early as possible according to time schedule. All the controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.
- (iii) The constitutional position and mandate thus has been clear that the electoral process once started cannot be interdicted or interfered by the courts, at any intermediary stage till its completion and culmination in the declaration of the result.
- (iv) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacle therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared.

1. *Ajay Makan v. Adesh Kumar Gupta*, 2012 (12) SCALE 173 : 2013 (1) JT 587.

The High Courts have been specifically conferred jurisdiction to deal with election petitions under RPA, 1951. These election petitions are filed in respect of any disputes after the elections are over and not during the continuation of the election process. Thus, High Courts have an exclusive jurisdiction to hear election petitions. Any party aggrieved by the decision of the High Court may file an appeal to the Supreme Court of India which shall be a final authority on the matter.

The wide powers conferred to the High Court under Article 226 of the Constitution have a grey area as far matters in respect of elections are concerned and they are generally taken through Election Petition itself.² The court usually determine on the facts of circumstance of the case whether they can treat the matter as under the writ jurisdiction or under election petition.

In the case of *N.P. Poonuswami v. Returning officer*³ (1952), the appellant filed nomination papers for election to the Madras Legislative Assembly from the Namakkal constituency. The Returning Officer rejected the appellant's nomination paper on certain grounds. The appellant thereupon moved the High Court under Article 226 of the Constitution praying for a writ of *certiorari* to quash the order of the Returning Officer and include his name in the list. The High Court dismissed the appellant's application on the ground that it had no jurisdiction to interfere with the order of the Returning Officer by the reason of the provisions of Article 329(b). In appeal, the Supreme Court upholding the order of High court said that any matter with regard to electoral process cannot be filed under Article 226 and it has to be filed within election petition. Hence, High Court has no jurisdiction under Article 226 of the Constitution to entertain petition.

Also, in the case of *Bhasker Khare v. Election Commissioner of India*⁴ (1967), the same was held that every matter with regard to election process should not be interfered by the High Court under Article 226.

Grounds on which an election may be challenged by means of election petition:

Section 100 of the RPA, 1951 deals with the grounds on which an election may be challenged by means of election petition as:

Subject to the provisions of Section 100(2) of RP Act 1951, if the High Court is of opinion –

- (a) That on the date of his election a returned candidate (elected candidate) was not qualified or was disqualified but chosen to fill the seat under the Constitution or the Government of Union Territories Act, 1963 or RP Act, 1951.
- (b) That any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent.

2. <http://www.legalserviceindia.com/article/l268-Powers-of-High-Court-to-entertain-election-petitions.html> (accessed Mar, 2019)

3. *N.P. Poonuswami v. Returning officer*, AIR 1952 SC 64, (1952) 1 SCR 218.

4. *Bhasker Khare v. Election Commissioner of India*, 1967 SCR 1081.

- (c) That any nomination paper has been improperly rejected.
- (d) That the result of the election concerned with a returned candidate has been materially affected –

By the improper acceptance of nomination. Or

By any corrupt practice committed in the interests of the returned candidate or by any agent other than his election agent. Or

By the improper reception, refusal or rejection of any vote or the reception of any vote which is void. Or

Then High Court in any of these cases can declare the election of the returned candidate to be void.

If in the opinion of the High Court, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the High Court is satisfied –

- (a) That no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent.
- (b) That the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election.
- (c) That in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents.

Then in these cases, the High Court may decide the election of the returned candidate is not void.

India's Most Famous and Landmark Election Case of Indira Nehru Gandhi v. Shri Raj Narain & Another⁵ (1975):

Raj Narain was the political contender against Indira Gandhi for Rae Bareilly Constituency in 1971 Lok Sabha General Elections. Mrs. Gandhi won the election and Congress won the house with sweeping majority. However, after the results of the polls, Raj Narain filed a petition before High Court of Allahabad contending that Indira Gandhi has performed Election malpractices. On June 12, 1975, the High Court of Allahabad found Indira Gandhi guilty of misusing government machinery under section 123(7) of Representative of Peoples Act, 1951 and thus, the court held that Indira Gandhi cannot continue as the Prime Minister of the nation, further, she cannot contest elections for another six years.⁶

Aggrieved by this decision Indira Gandhi went to appeal this ruling of Allahabad High Court in Supreme Court of India. However, SC being in vacation at that point of time granted a conditional stay on execution on June 24, 1975.

5. *Indira Nehru Gandhi v. Shri Raj Narain & another*, AIR 1975 SC 2299.

6. *Raj Narain v. Uttar Pradesh*, 1975 A.I.R. 865.

Thereafter, a national emergency was declared by the then President of India Fakhruddin Ali Ahmad citing internal disturbance but the real reason that led to the Emergency was the High Court Judgment.⁷

The Supreme Court while granting conditional stay, ordered the parties to appear before it on 11 August 1975. However, on 10 August 1975 the President of emergency-stricken India passed 39th Constitutional (Amendment) Act, 1971 by inserting Article 329-A to altogether bar the jurisdiction of Supreme Court of India from entertaining the matter. This amendment made the challenge to elections of President, Prime Minister, Vice-President and the Speaker of Lok Sabha unjustifiable in the courts of law.

Therefore, this 39th Amendment was challenged by Raj Narain before Supreme Court and the same was clubbed with main matter, namely *Indira Nehru Gandhi case (supra)*.

The Supreme Court of India applied the ratio of another landmark decision of *Keshavananda Bharati v. State of Kerala*⁸ (1973) and upheld the contention of Raj Narain and declared the impugned Clause 4 of Article 329A as unconstitutional.

This decision was one of the brave decisions reminding the greedy Parliament its place in the Constitution. The Parliament was taught that they are not alone in this democracy and that Judiciary is there to uphold the Constitution and save Democracy from harmful actions of Parliament. The court in this case upheld the principle of Separation of Power which builds checks and balances in the democracy to check that there is no sort of encroachment and overstepping. The Government of the day in order to save itself from Allahabad High Court decision passed the draconian 39th amendment. It was of the view that amidst Emergency the Judiciary will also kneel down and abandon its duty to uphold Constitution. However, the Judiciary resolved the crisis and struck down the draconian amendment passed to validate an invalid election.⁹

In *Jeet Mohinder Singh v. Harminder Singh Jassi*¹⁰ (1999), Election-nomination paper case, Supreme Court of India observed:

“As required by Sub-section (5) of Section 33 of the Act, the respondent was required to file alongwith the nomination paper a copy of the electoral roll of that Constituency (i.e., Pucca Kalan Assembly Constituency) or of the relevant part thereof or a certified copy of the relevant entries in such roll which the respondent had not done at the time of presentation of the nomination paper. However, such a document though not filed alongwith the nomination paper, could be produced before the returning officer at the time of scrutiny. The election petition alleges that the returning officer conducted scrutiny of nomination

7. *Raj Narain v. Uttar Pradesh*, 1975 A.I.R. 865.

8. *Keshavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

9. https://lawtimesjournal.in/indira-nehru-gandhi-v-raj-narain/#_ftn1 (accessed Mar, 2019)

10. *Jeet Mohinder Singh v. Harminder Singh Jassi*, AIR 2000 SC 256: (1999) 9 SCC 386.

papers. The appellant and some other candidates were present at the time of scrutiny in the office of the returning officer. The respondent or his election agent or any other person on his behalf was not present at the time of scrutiny. The returning officer did not exhibit all the nomination papers at the time of scrutiny nor allowed inspection thereof. He only announced that all the nomination papers were accepted. The appellant's specific request for inspection of the nomination papers was not allowed by the returning officer who said that there was no need of such inspection."

The Supreme Court held that Respondent must file copy of electoral roll of his constituency or certified copy of electoral roll in his constituency along with nomination papers. In absence of electoral roll, a Returning Officer will reject nomination. It was further held that Respondent having incurred expenditure in excess of the prescribed limit and filed false return of expenses. The statement of expenses and the vouchers as filed by the respondent were false or that the expenditure incurred on the posters had resulted into crossing the prescribed limit of expenditure. Thus the returned candidate has incurred much more expenditure and authorized the same over and above the one prescribed under Section 77 of the Act and committed a corrupt practice within the purview of Section 123(6) of the Act.

In *Ishwardas Rohani v. Alok Mishra*¹¹ (2012), the Supreme Court of India has held:

1. A charge of corrupt practice had a two dimensional effect. Its impact on returned candidate had to be viewed from point of view of candidate's future political and public life and from point of view of electorate to ensure purity of election process.
2. There had to be a balance in which provisions of Section 81(3) of Representation of People Act, 1951 were duly complied with to safeguard interest, both of individual candidate, as well as of public.
3. In present case, while accepting case made out by Appellant regarding deficiencies in Election Petition, Division Bench of High Court, did not commit any error in directing Election Petitioner to cure defects in Election Petition, which had been brought out during hearing of Election Petition.
4. Provisions had to be strictly construed, but that did not mean that any defect in Election Petition could not be allowed to be cured in public interest.
5. If after an opportunity was given, still no steps were taken by Election Petitioner to cure defects which were noticed, then rigors of procedure indicated by Act, come into effect with full vigor.
6. Election Petition was not only a bad piece of drafting, but it was also difficult to state with precision as to what exactly was substance of complaint in election Petition. Absurdity of election Petition could only be understood by reading it, but could not be explained.

11. *Ishwardas Rohani v. Alok Mishra*, (2012) 7 SCC 309 : 2012 (4) JT 585.

7. There were vague allegations regarding corrupt practices. Expression “election agent” occurring under Section 100 of Act, must be understood to be only an election agent appointed by candidate under Section 40 of Act—Section 123 of Act dealt with corrupt practices.
8. It declared 10 activities to be corrupt practices—Each one of Sub-sections of Section 123 of Act, dealt with a distinct corrupt practice, which contemplated commission or omission of an act or acts indicated therein either by candidate or his agent or any other person with consent of either candidate or his election agent.
9. An election agent could have been appointed by returned candidate only after filing his nomination.
10. To be guilty of committing a corrupt practice, returned candidate or his election agent or some other person duly authorized either by returned candidate or his election agent must have committed some act or omission contemplated under one of clauses under Section 123 of Act, after day of filing of nomination papers, but before completion of election process.
11. Therefore, returned candidate could not be legally accused to be guilty of any activity falling within scope of any one of corrupt practices enumerated under sections of Act, on date when returned candidate had not yet filed his nomination.
12. An election Petition was required to contain all material facts, which, either if proved or went uncontroverted, would be sufficient to constitute cause of action for setting aside election of returned candidate on one or some of grounds specified under Section 100 of Act.
13. Referring to the case of *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi*¹² (1987), Supreme Court held that allegations of corrupt practice were in nature of criminal charges, therefore it was necessary that there should be no vagueness in allegations so that returned candidate might know case he had to meet.—If allegations were vague and general and particulars of corrupt practice were not stated in pleadings, then trial of election Petition could not proceed for want of cause of action.
14. Failure to give “material particulars” had not been held to be fatal—but, failure to give “material facts” had always been held to be fatal to election Petition.
15. Consent by candidate or his election agent was an essential material fact, which was required to be pleaded and proved when allegation was that somebody other than candidate or his election agent committed a corrupt practice.
16. Election Petition in present case was incapable of being read as disclosing any cause of action on basis of any known cannon of interpretation of documents.

12. *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi*, AIR 1987 SC 1577 : (1987) 3 SCR 369.

17. Election petition, as originally presented, did not contain necessary material facts to constitute cause of action to challenge election of returned candidate. The Election Petition was dismissed and Appeal was allowed.

In *Ajay Arjun Singh v. Sharadendu Tiwari and Ors.*¹³ (2016) while partly allowing the appeal, the Hon'ble Supreme Court of India observed and held:

- The very purpose of Order VI, Rule 16 is to ensure that parties to a legal proceeding are entitled *ex debito justitia* to have the case against them presented in an intelligible form so that they may not be embarrassed in meeting the case.
- In the context of the application of Order VI Rule 16, Code of Civil Procedure to the election petition, Supreme Court in *Bhikaji Keshao Joshi v. Brij lal Nand lal Biyani*¹⁴ (1955) held that a court examining an election petition may order striking out of charges which are vague. In *Ponnala Lakshmaiah v. Kommuri Pratap Reddy*¹⁵ (2012), Supreme Court considered the scope of an application under Order VII Rule 11 Code of Civil Procedure. Such an application was filed by the returned candidate praying that the election petition be dismissed for non-disclosure of any cause of action. The Supreme Court opined that for the purpose of determining such an application, the averments in the election petition must be taken to be factually correct and thereafter examine whether such averments furnish the cause of action for granting the relief to the Petitioner. Such a conclusion was recorded on the basis of the law laid down in an earlier judgments of Supreme Court. The Court was of the opinion that the same principles of law are applicable even while adjudicating the application under Order VI Rule 16.
- All the remaining paragraphs which were prayed to be struck off, pertain to the allegation of corrupt practice falling Under Section 123(6). The allegations contained in each one of these paragraphs pertain to the expenditure incurred under different heads by the Appellant in connection with the election campaign. According to the Respondent the total amount of expenditure so incurred by the Appellant was in excess of the limit prescribed Under Section 77 of the Act.
- The Court accepted the submission of the election Petitioner. The values fixed by the Election Commission or its functionaries are not conclusive. There was no statutory basis for such an exercise. The valuation made by the Election Commission obviously would be based on the samples supplied by the candidates. There can never be any presumption that the candidates used the same quality of material in the actual process of campaigning. Apart from that the quantity and the quality of the material used

13. *Ajay Arjun Singh v. Sharadendu Tiwari and Ors.*, (2016)15 SCC 219.

14. *Bhikaji Keshao Joshi v. Brij lal Nand lal Biyani*, AIR 1955 610 : 10 E.L.R. 357.

15. *Ponnala Lakshmaiah v. Kommuri Pratap Reddy*, AIR 2012 SC 2638 : (2012) 7 SCC 788.

in the election campaign and the real cost of the material actually used by any candidate would always be questions of fact, which would be required to be established in evidence. The Court was of the opinion that the High Court rightly rejected the application of the Appellant on this count.

- The only major issue which required examination was regarding the third head mentioned above. It is once again required to be divided into two sub-headings: (a) The expenditure allegedly incurred in connection with the public meeting of Shri Rahul Gandhi at the District Headquarters, Sidhi on November 20, 2013. The substance of the allegation was that though the meeting was held at Sidhi, which is beyond the territorial limits of Churhat Constituency (from which the parties herein contested), the Appellant was not only present at such meeting but also shared the dais with Shri Rahul Gandhi (Vice-Chairman of the Indian National Congress). The Appellant mobilized lot of voters from his constituency and hired vehicles for that purpose incurring expenditure. The Appellant also incurred expenditure in connection with the erection of the pandals, security arrangement etc. According to the Respondent, such expenditure would be Rs. 13,88,073/- and the same is required to be added to the election expenditure of the Appellant; and (b) That the Appellant between 4.11.2013 to 19.11.2013 travelled on 8 occasions by chartered flights between Bhopal to Sidhi. According to the Respondent, on this Count alone the Appellant incurred an expenditure of Rs. 40 lakhs.
- The response of the Appellant as disclosed by IA No. 12911 of 2014 with regard to the abovementioned two allegations is found at paragraph Nos. 19 and 20. It can be seen therefrom that the Appellant does not dispute that there was a public meeting in the grounds of Sanjay Gandhi College at Sidhi on 20.11.2013 attended by Shri Rahul Gandhi. According to the Appellant, the venue of the meeting is within the territorial limits of 77 Sidhi Assembly Constituency but not within the territory of 76-Churhat Assembly Constituency. The meeting was organized by one Shri Kamleshwar Dwivedi who was the candidate of the Indian National Congress Party contesting from the said constituency. The said Kamleshwar Dwivedi lodged the account Under Section 78 of the Act disclosing the details of the expenditure incurred by him for conducting the aforesaid meeting which was duly accepted by the Returning Officer of 77-Sidhi Assembly Constituency. It is the specific plea of the Appellant that he was present in the said meeting because he was also one of the “star campaigners” for the Indian National Congress Party in the said election. According to the Appellant, the Appellant is under no legal obligation to account for the expenditure incurred for organizing the said meeting.
- It is significant to notice that there is no specific denial by the Appellant of the allegation in the election petition that the Appellant herein had hired a large number of vehicles to facilitate voters from his constituency to attend the said public meeting. IA No. 12911 of 2014 is absolutely silent regarding that allegation. The Appellant does not even deny the allegation. The Court

stated that it must not be understood to be holding that if the Appellant had denied the allegation, such denial would suffice to strike out of the pleadings.

- Coming to the second limb of that head regarding the cost incurred for the construction of pandals or barricades in connection with the abovementioned meeting of Shri Rahul Gandhi, the stand taken by the Appellant in the abovementioned IA is that the said meeting was held beyond the territorial limit of the assembly constituency from which the Appellant contested. The Indian National Congress Party's candidate contesting from Sidhi constituency had declared the expenditure incurred in connection with the said meeting. The Appellant is under no legal obligation to make any declaration of the expenditure incurred by him in connection with the said meeting. It may be noted that the Appellant does not make any categorical assertion that he did not incur any expenditure in connection with the said meeting.
- Coming to the use of the Helicopter, once again it is not a case of the Appellant that he did not use the helicopter as alleged by the Respondent-election Petitioner. His defense is that he is one of the "star campaigners" contemplated Under Section 77 of the Act. The expenditure was incurred by him for the use of the Helicopter as a "star campaigner." In that capacity he had to travel throughout the State holding public meetings propagating programme of the Indian National Congress Party. The expenditure for the use of the helicopter was "borne by the Indian National Congress" and, therefore, outside the purview of the election expenditure of the Appellant.
- Section 77 of the Act obligates every candidate in an election to keep a separate current account of all expenditures in connection with the election between the dates on which such a candidate has been nominated and the date of the declaration of result of that election. However, Clause (a) of explanation (1) to Section 77 of the Act declares "the expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party" shall not form part of the expenditure of the candidate.
- The expression "leaders of political party" occurring in explanation 1 is itself explained in explanation 2 to the said Section. It can be seen from explanation 2, to qualify to be called "a leader of the political party" for the purpose of such an election under Section 77, the name of such a person is communicated to the Election Commission and the Chief Electoral Officer of the State by the concerned political party. Such a communication is required to be made within a period of 7 days from the notification of such election published in the gazette of India etc.
- Persons whose names have been so communicated to the Election Commission popularly came to be called "star campaigners" in connection with an election. It is the admitted case of the parties before the Court that both Shri Rahul Gandhi and the Appellant are star campaigners/leaders of the Indian National Congress Party for the election in question.

- However, the entire expenditure incurred (on whatsoever count) by such star campaigners or on behalf of such star campaigners is not exempted under Section 77 for the purpose of determining the total expenditure incurred by any candidate in an election. The language of explanation 1 to Section 77 makes it clear that only the expenditure incurred by the star campaigner that too on account of travel for propagating the programme of the political party is excluded for the purpose of computing the expenditure incurred by the candidate. In other words, the expenditure incurred in connection with arrangements like erection of pandals etc. for a meeting of a star campaigner does not form part of the exempted expenditure under explanation 1. Secondly, under explanation II, the star campaigners' travel expenditure must have been incurred by the star campaigner himself. It is obvious from the opening Clause of explanation 1 "the expenditure incurred by leaders of a political party". If such expenditure is incurred by any person other than the star campaigner, different considerations would arise.
- The application i.e., IA No. 12911 of 2014 does not disclose on which one of the grounds contemplated under Order VI Rule 16, the various paragraphs of the election petition are required to be struck out. On the other hand, the Appellant gave an elaborate explanation with respect to each of the allegations contained in the various paragraphs of the election petition which are prayed to be struck out. The moment court is asked to examine the defense of the returned candidate in an election petition, the election petition can neither be dismissed for want of cause of action nor any part of the pleading can be struck out under Order VI Rule 16. In the absence of the availability of any one of the grounds mentioned in Order VI Rule 16, Code of Civil Procedure striking out is impermissible. As observed by this Court in the context of the application under Order VII Rule 11, the averments contained in the election petition at this stage must be presumed to be factually correct. The only possible scrutiny of such statement is whether those allegations are relevant in the context of the relief sought in the election petition. None of the allegations contained in the various sub paragraphs of paragraph 14, except paragraph 14M, can be said to be irrelevant in the context of the prayer in the election petition.
- The specific pleading in the election petition at paragraph 14M is that the Appellant herein used the helicopter on many occasions during the relevant period only between Bhopal and Sidhi, both of which are outside the constituency of the Appellant. The admitted fact is that the Appellant was one of the star campaigners for the said election for the State of Madhya Pradesh. Therefore, he was required to campaign for his political party, not only in his constituency but also in other constituencies of the State. In the absence of any allegation that the Appellant used the helicopter for travelling within 76-Churahat constituency for the purpose of campaigning, the expenditure incurred on that account, in Court's opinion, cannot be included in the election expenditure of the Appellant. Therefore, paragraph

14M of the election petition is liable to be struck off and is, accordingly, struck off.

- Before parting with this case, the Court place on record that the procedure adopted by the Appellant in initially filing a petition under Order VII Rule 11 petition, praying that the election petition be dismissed and filing the instant application after a long gap is to be deprecated. Preliminary objections, if any, (in cases where there is more than one) in an election petition are to be taken at the earliest point of time and in one go. The practice such as the one adopted by the Appellant only tends to delay the adjudication of the election petition which are mandated by the Parliament to be decided within a period of six months. The Court declared that the later of such successive petitions must be dismissed by High Courts in limine on that count alone.

The appeal was partly allowed, striking out paragraph 14M of the election petition.

Sanjay, felt elated to see Maharaj keenly observing everything he had said.

Maharaja said “Sanjay, I have a phenomenal sense of grasping what is audible. I desire to gain the knowledge of the judicial combats fought for the renovation, upgradation and shaping of the Indian Electioneering. Could you enlighten me with the elaborative detailed information suitable for this context.”

“Sure Maharaj” and Sanjay bowed with his palms joined.



CHAPTER 17

LANDMARK ELECTION LAW JUDGMENTS

“Maharaj, now I would provide you with the short summary of some of the landmark Election judgments passed by Indian Courts of Law. You may patiently listen or observe meditation. I would plead if you provide your wisdom and outlook by expressing your opinion on these,” Sanjay requested to Maharaj Dhritarashtra and thereafter began announcing various landmark election judgments one by one. All of them denote the Electioneering process India has passively adopted. The sharp, pragmatic, progressive Arjuna of the country leave no stone unturned in achieving betterment. Here goes the long list in the chronology to explain the progression of Indian Election Process,

Jyoti Basu v. Debi Ghosal¹ (1982)

Sh. Mohd. Ismail, sponsored by the Communist Party of India (Marxist), was elected to the House of the People from the 19-Barrackpore Parliamentary Constituency in West Bengal at the general election held in January, 1980. An election petition was filed before the Calcutta High Court by one of the rival candidates Shri Debi Ghosal. In that election petition, the election petitioner joined, apart from the returned candidate, Sh. Jyoti Basu, who was the Chief Minister of West Bengal, and two other Ministers of the Government of West Bengal, as respondents, alleging that they had colluded and conspired with the returned candidate to commit various corrupt practices. Shri Jyoti Basu submitted before the High Court that he could not be impleaded as respondent to an election petition under the provisions of the Representation of the People Act, 1951. That objection was, however, overruled by the High Court. Aggrieved by the order of the High Court rejecting his application for striking out his name from the array of parties in the election petition, Shri Jyoti Basu filed an appeal before the Supreme Court. The Supreme Court upheld his contention and allowed his appeal, holding that under Section 82 of the Representation of the People Act, 1951 only the candidates at the impugned election could be joined as respondents to an election petition, and no one else.

Km. Shardha Devi v. Krishna Chandra Pant² (1982)

Km. Shradha Devi filed an election petition before the Allahabad High Court, challenging the election of Shri Krishna Chandra Pant to the Council of States, at

1. *Jyoti Basu v. Debi Ghosal*, AIR 1982 SC 983: (1982) 1 SCC 691.

2. *Km. Shradha Devi v. Krishna Chandra Pant*, AIR 1982 SC 1569: (1982) 3 SCC 389.



the biennial election held in 1978. At that election, 421 votes were polled, of which 11 votes were declared as invalid by the Returning Officer. In the election petition, several allegations were made in regard to the improper rejection of these 11 votes and also about improper reception of certain other votes. These votes had been cast under the system of proportional representation by means of a single transferable vote. The High Court allowed the inspection of only 4 of the 11 invalid votes, on the ground that the petitioner had given details about the rejection of these 4 votes only in her election petition. Further, as a result of the scrutiny done by the Joint Registrar of the High Court under the direction of the High Court, he could co-relate only 2 of the aforesaid 4 ballot papers with the petitioner's allegations. The High Court then took those 2 ballot papers into consideration and found that election petitioner had still lost the election. Aggrieved by the order of the High Court, an appeal was filed before the Supreme Court. The Supreme Court set aside the order of the High Court, holding that the High court should have examined all the 11 invalid votes. The Supreme Court held that the petitioner had to offer prima facie proof of errors in counting and if errors in counting were established, by providing proof of some errors in respect of some ballot papers, scrutiny and recounting could not be limited to those ballot papers only and that a recount could be ordered of all disputed ballot papers. The Supreme Court, therefore, sent the case back to the High Court for re-examination of the case by a re-scrutiny of all the 11 ballot papers under dispute. The Supreme Court also laid down that any remark or writing on a ballot paper to invalidate it must be such as to unerringly point in the direction of identity of the voter and that in the absence of such suggested remark or writing the ballot paper could not be rejected merely because these were some remarks or writings by which the voter may possibly be identified.

Pashupati Nath Sukul v. Nem Chandra Jain & Ors.³ (1984)

After the general election to constitute a new Legislative Assembly for the State of Uttar Pradesh held in May/June, 1980, the Election Commission constituted the new House on June 9, 1980 by its notification under Section 73 of the Representation of the People Act, 1951. On June 17, 1980, a notification was issued by the President calling upon the elected members of the Uttar Pradesh Legislative Assembly to elect certain members to the Council of States. According to the election programme fixed by the Election Commission, June 24, was the last date for making nominations for the election and the poll was scheduled to be held on July 4, 1980. On the date of issuing the notification calling the election, i.e., June 17, 1980, the new House of the Legislative Assembly had not yet met for its first meeting and the newly elected members of the Assembly had not yet taken the oath as required by Article 188 of the Constitution before taking their seats in the House. After the aforesaid election to the Council of States was over on July 4, 1980, one of the defeated candidates, Shri Nem Chandra Jain, filed an election petition before the Allahabad High Court calling in question the

3. *Pashupati Nath Sukul v. Nem Chandra Jain & Ors*, AIR 1984 SC 399: (1984) 2 SCC 404.

whole election, mainly, on two grounds, namely, (i) that the members of the Uttar Pradesh Legislative Assembly could not nominate candidates for the election, as they had not taken the oath under Article 188 of the Constitution by the time the nominations closed for the election, and (ii) the Secretary to the Uttar Pradesh Legislative Assembly, who was appointed as Returning Officer for the election by the Election Commission under Section 21 of the Representation of the People Act, 1951, could not be appointed as such Returning Officer, as he was not an Officer of the Government within the meaning of the said Section 21. The High Court upheld the above contentions of the election petitioner and declared the whole election as void.

Appeals were filed before the Supreme Court. The Supreme Court, by its order, reversed the decision of the High Court on both the above issues and allowed the appeals, upholding the election. The Supreme Court held that an elected member, who has not taken oath under Article 188 of the Constitution but whose name appears in the notification published by the Election Commission under Section 73 of the Representation of the People Act, 1951, can take part in all non-legislative activities of an elected member, including the election to the Council of States. The Supreme Court also held that the word “Government” in Section 21 of the above Act should be interpreted liberally so as to include within its scope the Legislature, the Executive and the Judiciary.

AC Jose v. Sivan Pillai⁴ (1984)

At the election to the Kerala Legislative Assembly, held in May, 1982 from 70-Parur Assembly Constituency, the Election Commission used, for the first time, Electronic Voting Machines (EVMs) at 50 polling stations out of 84 polling stations in the constituency, for recording and counting of votes at those polling stations. Shri A.C. Jose, who lost the election, questioned before the Kerala High Court the use of EVMs at the aforesaid 50 polling stations in the constituency on the ground that the Representation of the People Act, 1951 and the Conduct of Elections Rules, 1961 did not provide for use of EVMs for the purpose of conducting the poll and counting of votes in elections in India. The High Court dismissed the election petition, holding that the Election Commission was empowered by Article 324 of the Constitution to use the EVMs, though the said statutory provisions did not specifically provide for the use thereof in elections.

The Supreme Court, which the appellant approached by way of an appeal, however, reversed the order of the High Court and accepted the contention of the petitioner-appellant. The Supreme Court held that the EVMs could not be used in elections without an express provision in the law. The Supreme Court also held that the Election Commission has to conduct elections according to law enacted by Parliament and it could, in exercise of its powers under Article 324 of the Constitution, supplement the law but not supplant it. The Supreme Court,

4. *A.C. Jose v. Sivan Pillai*, AIR 1984 SC 921: (1984) 3 SCR 74.

therefore, declared the election from the Parur Assembly Constituency as void and directed a re-poll to be held in the 50 polling stations where EVMs were used.

Election Commission of India v. State of Haryana⁵ (1984)

The Election Commission decided to hold a by-election to the Haryana Legislative Assembly from Taoru Assembly Constituency in 1984. It decided to issue the notification calling the by-election on April 18, 1984. The State of Haryana, however, wrote to the Commission that the law and order situation in the constituency was not conducive to the holding of free and fair election and wanted the by-election to be postponed. The Commission did not agree with the assessment of the State Government as to the law and order situation in the constituency and went ahead with its planned schedule of calling the by-election on April 18, 1984. The State Government approached the Punjab and Haryana High Court on April 17, 1984 and obtained an ex-parte order from the High Court staying issuance and publication of the Commission's notification on April 18th, 1984.

The Election Commission approached the Supreme Court on April 18, 1984. The Supreme Court, appreciating the urgency of the matter, heard the Commission's appeal in the afternoon of April 18, 1984 and suspended the operation of the High Court's state Order. Subsequently, the Supreme Court heard the matter at length on several days and ultimately by a majority judgment (4:1) struck down the High Court's Order, holding that the High Court was not justified in substituting its own opinion for that of an authority (Election Commission) duly appointed for specific purpose by the law and the Constitution. The apex Court also held that though the State Government was in the best position to assess the law and order situation in the State, the ultimate decision as to whether it was possible and expedient to hold the election at any given point of time must rest with the Election Commission.

Krishna Ballabh Singh v. SDO Hilsa cum Returning Officer & Ors.⁶ (1985)

At the general election to the Bihar Legislative Assembly held in March, 1985, after the counting of votes in Islampur Assembly Constituency was over, the Returning Officer announced that the petitioner, Shri Krishna Ballabh Prasad Singh, was duly elected. A certificate of election in Form-22, appended to the Conduct of Elections Rules, 1961, was also granted to him. But the declaration in Form 21 C under Rule 64 A of the said Rules was not yet prepared by the Returning Officer and not sent to the authorities required thereunder. While preparing that declaration, the Returning Officer discovered that the votes of one booth had not been counted. He then took those votes into account and found that some other candidate, and not the petitioner, had got the majority of votes. He thereupon cancelled the election certificate of the petitioner and declared the said other candidate to be the successful candidate. A declaration was then prepared in Form 21 C and fresh certificate in Form 22 was issued to the elected candidate.

5. *Election Commission of India v. State of Haryana*, AIR 1984 SC 1406: (1984) 3 SCR 554.

6. *Krishna Ballabh Singh v. SDO Hilsa cum Returning Officer*, (1985) 4 SCC 194.

The petitioner filed a writ petition in the Patna High Court challenging the declaration made by the Returning Officer in favor of the above mentioned elected candidate. A Division Bench of two Judges of the High Court heard the writ petition and, on a difference of opinion between the two, the case was referred to a third Judge of the High Court. The Third Judge agreed with the view taken by one of the Judges of the Division Bench that the writ petition must fail because of the bar imposed by Article 329 (b) of the Constitution, and that an election petition was the proper remedy. The appeal was filed against the above order of the High Court, raising the question as to when the election process came to end and up to what stage the bar in Article 329 (b) operated against writ petition. The Supreme Court held that the process of election came to end only after the declaration in Form 21 C was made and the consequential formalities were completed by the Returning Officer. The writ petition in the present case was, thus, not entertainable.

Indrajit Barua & Ors. v. Election Commission of India⁷ (1986)

On the eve of general election to the Assam Legislative Assembly in 1979, certain writ petitions were filed before the Guwahati High Court, seeking a direction to the Election Commission not to hold the general election as the electoral rolls were alleged to be defective. The High Court entertained the writ petitions but did not grant interim stay of elections. Subsequently, the elections to the State Assembly were held and the House constituted. After the general election, some more writ petitions were filed before the High Court challenging the electoral rolls and questioning the validity of all the elections to the Legislative Assembly and praying for dissolution of the House. At the instance of the Election Commission, all these writ petitions were transferred to Supreme Court for disposal. The Supreme Court dismissed all the petitions by an order on September 28, 1984. It gave detailed reasons for its order dated September 28, 1984 by a subsequent order dated September 30, 1985. The Supreme Court held that the general election as a whole could not be called in question by a writ petition, even though there was a common ground which might have vitiated the elections from all the constituencies and that election from each constituency had to be challenged separately by an election petition. The Supreme Court also held that the validity of election could not be called in question on the ground that the electoral rolls were defective as the finality of electoral rolls could not be assailed in an election petition.

Azhar Hussain v. Rajiv Gandhi⁸ (1986)

The election of Shri Rajiv Gandhi, to the Lok Sabha from Amethi Parliamentary constituency held in December, 1984, was challenged before the Allahabad High Court by way of an election petition. The petitioner alleged the commission of various corrupt practices by the returned candidate. On the preliminary objection being raised as to the maintainability of the election petition for want of material facts and particulars, the High Court dismissed the election petition.

7. *Indrajit Barua & Ors. v. Election Commission of India*, AIR 1986 SC 103.

8. *Azhar Hussain v. Rajiv Gandhi*, AIR 1986 SC 1253: (1988) 2 SCR 782.

The Supreme Court also dismissed the election petition and the election appeal. The Supreme Court held that the election petition did not furnish material facts and particulars in regard to allegations of corrupt practices, which was a mandatory requirement of Section 83 of the Representation of the People Act, 1951. All the facts which are essential to clothe the petition with complete cause of action must be pleaded and failure to plead even a single material fact would amount to disobedience of the mandate of Section 83 (1) (a) of the said Act for which the election petition must be dismissed at the threshold itself. The Court also laid down what material facts should be disclosed and pleaded in the petition.

Dhartipakar Madan Lal Aggarwal v. Rajiv Gandhi⁹ (1987)

Shri Rajiv Gandhi was elected to the House of the People at a by-election held on June 14, 1981 from the Amethi Parliamentary Constituency in Uttar Pradesh to fill up the vacancy caused by the death of Shri Sanjay Gandhi. His election was challenged by one of the defeated candidates, Shri Madan Lal Dhartipakar, before the Allahabad High Court by filing an election petition on number of grounds, including allegations of corrupt practices and undue influence, hiring and procuring of vehicles for carrying voters, obtaining the assistance of Government servants and incurring election expenses in excess of the permissible limit. On an application by Shri Rajiv Gandhi, the High Court dismissed the election petition on October 12, 1981, holding that the various paragraphs contained in the petition did not contain sufficient averments to constitute any corrupt practices, and various paras of the petition were unnecessary, frivolous and vexatious within the meaning of Civil Procedure Code.

This led to an appeal filed before the Supreme Court against the said order of the Allahabad High Court. During the pendency of the present appeal, another general election to the House of the People was held in 1984 and Shri Rajiv Gandhi was again elected to the House of the People from the same Amethi Parliamentary Constituency. The Supreme Court dismissed the present appeal, upholding in the High Court's judgment that the election petition did not disclose any cause of action or raise any triable issues. The Supreme Court also observed that the election of Shri Rajiv Gandhi to the House of the People in 1984 could not be set aside on the ground of the election petition filed in relation to his earlier election in 1981. However, the said election petition did not become infructuous, as charges of corrupt practices were alleged therein, which had to be investigated as proof thereof could result in disqualification for contesting elections in future. The Supreme Court, however, observed that Parliament should consider desirability of amending law to prescribe time limit for inquiring into allegations of corrupt practices or devise means to ensure that valuable time of Supreme Court was not consumed in election matters which by efflux of time were reduced to mere academic interest. The Supreme Court also expressed serious concern over the large number of independent candidates which caused confusion.

9. *Dhartipakar Madan Lal Aggarwal v. Rajiv Gandhi*, AIR 1987 SC 1577: (1987) 3 SCR 369.

Election Commission of India v. Shivaji & Ors¹⁰ (1988)

The Governor of Maharashtra, by a notification dated September 18, 1987 issued under Section 16 of the Representation of the People Act, 1951, called upon six local authorities' constituencies in the State of Maharashtra to elect one member each to the Maharashtra Legislative Council. The Osmanabad-cum-Latur-cum-Beed local authorities' constituency was one of these six constituencies. One Shri Shivaji and four others challenged before the Bombay High Court (Aurangabad Bench), the notification calling the election in the above constituency on the ground that Zila Parishads of Osmanabad and Latur, which were within the constituency, had not been constituted and these Parishads were being run by the Administrators. The learned single Judge, who heard the writ petition on September 26, 1987, issued notice on the writ petition and passed an interim order ex-parte postponing the last date for withdrawal of candidatures in the said constituency from September 28, 1987 to 1st October, 1987. However, a Division Bench of the High Court heard the writ petition on October 1, 1987 and dismissed the same. But, while the dismissing the writ petition, the High Court did not make any observation as to the effect of interim order passed by it on September 26, 1987, on the election programme. Eighteen candidates withdrew their candidatures by October 1, 1987, i.e., the last date for withdrawal of candidatures as per the interim order of the High Court. In the circumstances, the Election Commission considered it fair to postpone the date of poll from October 18, 1987 (as originally notified) to November 1, 1987 and notified the change of date of poll in the official Gazette on October 15, 1987. On October 16, 1987, the said writ petitioners filed a review petition before the High Court seeking a direction to the effect that the election programme might be re-notified on the ground that clear 20 days' interval was not there between the last date for withdrawal of candidatures and the date of poll, which was originally fixed as October 18, 1987. When the review petition came up for consideration on the October 16, 1987, it was brought to the notice of the High Court that the date of poll had already been postponed to November 1, 1987. Despite the same, the High Court issued notice and directed that the election fixed on October 18, 1987 would have to be stayed till the High Court passed further order on October 18, 1987.

The Commission's appeal came up for hearing in the Supreme Court on October 27, 1987 and the Supreme Court stayed the orders of the High Court and permitted the Election Commission to proceed with the election process. The appeal was finally heard on October 30, 1987 and the Supreme Court set aside the High Court's both the orders, holding that the High Court had no jurisdiction, in view of Article 329 (b) of the Constitution, to interfere in the electoral process, and that both the interim orders were without jurisdiction. The Supreme Court also expressed its anguish over the manner in which the High Court interfered in the electoral process twice.

10. *Election Commission of India v. Shivaji & Ors*, AIR 1988 SC 61: (1988) 1 SCR 878.

B. Sundra Rami Reddy v. Election Commission of India¹¹ (1991)

After the general election to the Andhra Pradesh Legislative Assembly held in November, 1989, an election petition was filed before the Andhra Pradesh High Court challenging the election of Shri B. Sundra Rami Reddy from Atmakur Assembly Constituency, by a defeated candidate, Shri K. Anjaneya Reddy. In the election petition, the petitioner challenged the validity of the Election Commission's order declaring the poll at Bhogesamudram polling station as void and directing re-poll at that polling station. He impleaded the Election Commission of India as one of respondents to the election petition. On an application by the Commission, the High Court deleted the name of the Election Commission from the array of parties.

The above order of the High Court was challenged before the Supreme Court. The Supreme Court dismissed the appeal, holding that only those may be joined as respondents to an election petition who are mentioned in Sections 82 and 86 (4) of the Representation of the People Act, 1951 (i.e., candidates) and, no others, and therefore the Election Commission could not be impleaded as a party to an election petition.

Kihoto Hollohan v. Zachillhu¹² (1992)

Some members of the Nagaland Legislative Assembly were disqualified by the Speaker of the Assembly under the Tenth Schedule to the Constitution of India, as inserted by the Constitution (Fifty-Second Amendment) Act, 1985, on the ground of defection. They challenged the order of the Speaker before the High Court of the State. Several other similar orders of the Speakers of the Legislative Assemblies of Manipur, Meghalaya, Madhya Pradesh, Gujarat and Goa were also under challenge before the various High Courts. The Supreme Court transferred all those matters to it and decided them in the present case.

The petitioners had challenged the constitutional validity of the Tenth Schedule to the Constitution on several grounds. In particular, para 7 of the Tenth Schedule was challenged on the ground that para 7 of the Tenth Schedule had taken away the jurisdiction of all Courts, including the Supreme Court, to review the order of the Speaker under that Schedule.

The Supreme Court, by its order, struck down para 7 of the Tenth Schedule on the ground that it made, in terms and in effect, changes in Articles 136, 226 and 227 of the Constitution and, therefore, should have been ratified by the specified number of State Legislatures under the proviso to Clause (2) of Article 368 of the Constitution, which had not been done. The Supreme Court, by majority decision (3:2), upheld the validity of the remaining paragraphs of the Tenth Schedule, holding that the order of the Speaker under the Tenth Schedule was justiciable and

11. *B. Sundra Rami Reddy v. Election Commission of India*, (1991) Supp. 2 SCC 624.

12. *Kihoto Hollohan v. Zachillhu*, 1992 SCR (1) 686 : 1992 SCC Supl. (2) 651.

subject to judicial review by the High Courts and Supreme Court under Articles 226 and 227 and 136 of the Constitution.

Rama Kant Pandey v. Union of India¹³ (1993)

Section 52 of the Representation of the People Act, 1951 was amended by the Representation of the People (Amendment) Ordinance, 1992 (1 of 1992) to provide that the election in a constituency shall be countermanded on the death of a candidate, set up by a recognized political party only, and not on the death of any candidate as was the law prior to the amendment. Further, Section 30 of the said Act was also amended by another Ordinance, namely, Representation of the People (Second Amendment) Ordinance, 1992 (2 of 1992), whereby the minimum period between the last date for the withdrawal of candidatures and the date of poll was reduced from 20 to 14 days.

The petitioner, Shri R.K. Pandey, challenged the constitutional validity of the both the above mentioned Ordinances, before the Supreme Court in the present writ petition, on the ground of violation of Articles 14 and 19 of the Constitution of India. He particularly contended that the distinction made by the impugned amendment to Section 52 between a candidate set up by a recognized political party and any other candidate was artificial, inconsistent with the spirit of election law and discriminatory. The Supreme Court dismissed the writ petition, holding that the candidates set up by recognized political parties constitute a class separate from the other candidates, and that there was no violation of Article 14 of the Constitution in so far as the amendment to Section 52 of the Representation of the People Act, 1951 was concerned. The Supreme Court also held that the period of 14 days for election campaign could not be said to be inadequate and inappropriate, especially in the changed circumstances which are prevailing in the country.

Lal Babu Hussain v. Electoral Registration Officer & Ors.¹⁴ (1995)

Three Writ Petitions were filed in the Bombay High Court challenging the directive of the Election Commission issued on August 21, 1992, directing Collectors of Districts in India to determine if any person was or was not foreigner, for the purposes of preparation and revision of electoral rolls. Two writ petitions were moved before the Supreme Court also, on more or less small allegations relating to the verification proceedings being undertaken by the Electoral Registration Officer of Motia Khan in Pahar Ganj Areas and Sanjay Amar Jhugi Jhompri Colony in Matia Mahal Assembly Constituency in Delhi.

The Supreme Court went into the directives issued by the Election Commission so as to delete the names of foreigners on the electoral rolls. The Court, however, found that the names of a large number of persons on the electoral rolls were being deleted without giving the persons concerned an adequate opportunity

13. *Rama Kant Pandey v. Union of India*, AIR 1993 1766: 1993 SCR (1) 786.

14. *Lal Babu Hussain v. Electoral Registration Officer & Ors.*, AIR 1995 1189: 1995 SCC (3) 100.

of presenting their cases and without disclosing the evidence in possession of Electoral Registration Officers against the persons concerned on the basis of which their names were sought to be deleted. On a suggestion from the Supreme Court, the learned Counsel for the Election Commission, Electoral Registration Officers and for the petitioners submitted a set of guidelines to be followed by the electoral registration authorities, for consideration of the Court. The Court after taking into consideration the guidelines suggested by either side, issued its own set of guidelines for the Electoral Registration Officers in the matter of enrollment and deletion of names of persons suspected to be foreign nationals. The Supreme Court struck down all the proceedings which had been initiated against the suspected foreign nationals and directed fresh proceedings to be initiated taking into consideration the guidelines laid down by the Supreme Court.

T.N. Seshan v. Union of India¹⁵ (1995)

On October 1, 1993, the President of India, in exercise of powers conferred by clause (2) of Article 324 of the Constitution, fixed, until further orders, the number of Election Commissioners (other than the Chief Election Commissioner) at two. By a further notification of even date, the President was pleased to appoint Dr. M.S. Gill and Shri G.V.G. Krishnamurthy as Election Commissioners with effect from October 1, 1993. Simultaneously, the President also promulgated an Ordinance entitled the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993 (32 of 1993) to amend the “Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991;” these were challenged by then Chief Election Commissioner, Shri T.N. Seshan. Constitution Bench of the Supreme Court, by its landmark judgment dated July 14, 1995, dismissed the writ petition of Shri T.N. Seshan, fully upholding the constitutional validity of the impugned Ordinance and the Act, and also upholding the appointment of Dr. M.S. Gill and Shri G.V.G. Krishnamurthy as Election Commissioners. The Court also made some adverse observations about the conduct of Shri T.N. Seshan as Chief Election Commissioner.

Janata Dal (Samajwadi) v. Election Commission of India¹⁶ (1996)

The Janata Dal (Samajwadi) was recognized by the Election Commission as a National party under the provisions of the Election Symbols (Reservation & Allotment) Order, 1968, on April 16, 1991. The Election Commission reviewed the poll performance of the party at the general elections to the Lok Sabha and to the Legislative Assemblies of certain States held in April-June, 1991. On the basis of such review, the Commission found that the party had failed to fulfill the conditions for continued recognition as a National party under the provisions of said Symbols Order. Thereupon, the Election Commission, after hearing the party, withdrew its recognition as a National party, by its order dated February 21,

15. *T.N. Seshan v. Union of India*, AIR 1995 (4) SCC 611.

16. *Janata Dal (Samajwadi) v. Election Commission of India*, AIR 1996 577: 1996 SCC (1) 235.

1992. Aggrieved by the above order of the Election Commission, the party filed an appeal before the Supreme Court. The Supreme Court dismissed the appeal, holding that once the Commission is satisfied that a political party recognized as a National party has ceased to fulfill the conditions prescribed in paragraph 6(2) of the Symbols Order as a result of any election, it can de-recognize such a political party as National party. The Supreme Court also held that the provisions of Section 21 of the General Clauses Act are also applicable in the case of such orders issued by the Election Commission under the Symbols Order.

Common Cause v. Union of India¹⁷ (1996)

In this writ petition filed by the Common Cause, a registered society, as public interest litigation, it was alleged that the political parties were not submitting their accounts to the Income Tax authorities as required under Section 13A of the Income Tax Act, 1961. It was also alleged that crores of rupees were being spent on elections by candidates and political parties without indicating the source of the money so spent and far in excess of the limits of election expenses prescribed under Section 77 of the Representation of the People Act, 1951, and that political donations were being made by companies in violation of Section 293 A of the Companies Act, 1956.

On examination, the Supreme Court found that most of the political parties were in default of filing their annual returns under the Income Tax Act, and that the Income Tax authorities were also wholly remiss in the performance of their statutory duties under the law. The Court directed the Ministry of Finance and the Income Tax authorities to ensure strict compliance by the political parties with the provisions of the Income Tax Act.

The Court also clarified the provisions of Section 77 of the Representation of the People Act, 1951, and held that a candidate shall be presumed to have authorized or incurred all expenditure in connection with his election and that, if he claimed any exemption under Explanation (1) to Section 77, the burden lay on him to show that any part of such expenditure was not incurred or authorized by him but by the party to which he belongs or by any other association or body of persons or individual. Further, such party or association or individual should have filed his income tax return. Furthermore, the Election Commission also has the power under Article 324 of the Constitution to require the political parties to submit, for its scrutiny, the details of the expenditure incurred or authorized by them in connection with the election of their candidates.

Kanhaiya Prasad Sinha v. Union of India¹⁸ (1990)

In connection with the general elections to the Lok Sabha and Legislative Assemblies of certain States, including Bihar, to be held in 1989–90, the Election Commission issued certain directions from July 26, 1989 onwards to the State

17. *Common Cause v. Union of India*, (1996) 2 SCC 752.

18. *Kanhaiya Prasad Sinha v. Union of India*, AIR 1990 Pat 189 : 1990 (38) BLJR 714.

Governments concerned that the Officers and Staff, who were connected with the conduct of elections, should not be transferred, till elections were over. The petitioner, who was posted as Sub Divisional Officer of Muzaffarpur West Sub Division, was transferred by the State Government's order dated January 6, 1990, i.e., after the general election to the Lok Sabha was over in December, 1989, but before the general election to Bihar Legislative Assembly which was then due in February/March, 1990. The Election Commission received certain reports that its direction placing ban on transfers of Election Officers was not being observed in some States, including Bihar. The Election Commission reiterated its directions on the subject to all State Governments concerned. The Government of Bihar informed the Commission on January 15, 1990 that no officer connected with election work shall be transferred without prior approval of the Election Commission and that all unimplemented transfer orders shall be kept pending and implemented only if considered essential, after taking approval of the Commission. The State Government also stated that all transfer orders issued after the December 24, 1989 and which had been implemented shall be placed before the Commission for post-facto approval. The Commission gave its post-facto approval to the transfer orders already implemented, observing that re-transfer of the officers to their original post would further dislocate the election work, causing all round inconvenience. The petitioner insisted that his transfer was in violation of the Election Commission's directives and should be set aside by the Court.

The full Bench of the High Court, by three separate but concurring judgments, dismissed the writ petition in view of the stand taken by the Commission. The High Court, however, observed that the directions issued by the Commission under Article 324 of the Constitution, even if some were considered as directory in nature, must be respected and implemented by all the authorities concerned. A healthy convention must develop in the country to respect the directions issued from time to time by the Election Commission. It has to be remembered that office of the Election Commission is one of the most sacred institutions under the Constitution, since the democracy can only be achieved through proper functioning of the said institution. The State Governments are constitutionally obliged to respect and comply with the instructions issued by the Election Commission and not to disregard or ignore them. The Court expressed a hope that in future the authorities concerned would act with greater caution and circumspection so that such lapses may not occur in future.

N. Kristappa v. Chief Election Commissioner¹⁹ (1995)

General election to the Andhra Pradesh Legislative Assembly was called by the Governor's notification dated November 1, 1994 under Section 15(2) of the Representation of the People Act, 1951. According to the time table notified by the Election Commission under Section 30 of that Act, November 8, 1994 was the last date for making nominations in all Assembly Constituencies. On that day,

19. *N. Kristappa v. Chief Election Commissioner*, AIR 1995 AP 212: 1995(1)ALT121.

the Election Commission received reports from the State Government and election authorities that one of the intending candidates sponsored by a recognized National party for 163–Gorantla Assembly Constituency was abducted, while on his way to the office of the Returning Officer for filing his nomination paper, and was thereby prevented from filing his nomination within the stipulated period. After an inquiry, the Commission was satisfied about the fact of abduction of the said candidate and was of the view that the election process had been irretrievably sullied and would not be reflective of true choice of electorate of that constituency. The Commission, therefore, recommended to the Governor of Andhra Pradesh to rescind his notification dated November 1, 1994, in so far as it related to the above constituency. Accordingly, the Governor, by his notification dated November 11, 1994 cancelled his notification dated November 1, 1994 in so far as the election from the above mentioned constituency was concerned.

The above acts of the Governor and Election Commission were challenged before the Andhra Pradesh High Court by these two Writ Petitions. The petitioners contended that the election process once started could not be stopped even by the Election Commission and that the Governor having once issued the notification became *functus officio*. It was also contended that Section 21 of the General Clauses Act, 1897 was not applicable in this case and that the Commission could only extend the date of completion of election under Section 153 of the R. P. Act, 1951. A learned single Judge of that High Court dismissed both the petitions rejecting the contentions of the petitioners by holding that the Election Commission is sufficiently clothed with the power though not vested under the Act, but even by invoking the plenary powers conferred on it under Art. 324 and issue appropriate directions for the conduct of free and fair elections in a given case. The Election Commission can issue directions rescinding the election notification.

P Ravindra Reddy v. Election Commission²⁰ (1995)

General election to the Andhra Pradesh Legislative Assembly was called by the Governor's notification dated November 1, 1994 under Section 15(2) of the Representation of the People Act, 1951. According to the time table notified by the Election Commission under Section 30 of that Act, November 8, 1994 was the last date for making nominations in all Assembly Constituencies. On that day, the Election Commission received reports from the State Government and election authorities that one of the intending candidates sponsored by a recognized National party for 163–Gorantla Assembly Constituency was abducted, while on his way to the office of the Returning Officer for filing his nomination paper, and was thereby prevented from filing his nomination within the stipulated period. After an inquiry, the Commission was satisfied about the fact of abduction of the said candidate and was of the view that the election process had been irretrievably sullied and would not be reflective of true choice of electorate of that constituency. The Commission, therefore, recommended to the Governor of Andhra Pradesh to

20. *P Ravindra Reddy v. Election Commission*, 1995 (1) ALT 204.

rescind his notification dated November 1, 1994 in so far as it related to the above constituency. Accordingly, the Governor, by his notification dated November 11, 1994 cancelled his notification dated November 1, 1994 in so far as the election from the above mentioned constituency was concerned. On appeal, to a Division Bench of the High Court, the Division Bench held:

- (i) Under Article 324 of the Constitution, the Election Commission is clothed with very wide powers. Parliament has enacted the Representation of the People Act, 1950 and the Representation of the People Act, 1951. But this does not mean that the Commission on account of the aforesaid two parliamentary enactments is divested of its powers of superintendence, direction and control of preparation of electoral rolls or conduct of elections to Parliament and State Legislatures. The Commission still retains its jurisdiction as also its plenary powers under Article 324, except in respect of matters for which specific provision has been in the Acts made by Parliament.
- (ii) The abduction of a candidate is a situation which is not foreseen by any of the provisions contained in Representation of the people Act, 1951 or the Rules made thereunder, and therefore, when the Commission recommended to the Governor to cancel the notification dated November 1, 1994, it purported to operate in a field which was not covered by any Parliamentary legislation.
- (iii) Since the power to issue a notification by the Governor under Section 15 of the Representation of the People Act, 1951 is available under the Central Act, the provisions of Section 21 of the General Clauses Act would be available to the Governor in rescinding the notification. There is nothing in Section 15 or any other provision of the Representation of the People Act which, by context or by implication, excludes the availment of power conferred by Section 21 of the General Clauses Act. On the other hand, the exercise of power under Section 21 in a case of this nature advances the purposes of the enactment dealing with election.

Om Prakash Shrivastava v. Election Commission²¹ (1996)

In connection with the general election to the Uttar Pradesh Legislative Assembly held in September/October, 1996, the petitioner, Shri Om Prakash alias Babloo Srivastava, filed his nomination paper from 103-Lucknow Central Assembly Constituency on September 13, 1996. The Returning Officer accepted his nomination paper on the date of scrutiny (September 14, 1996) and he was allotted the election symbol “Car” on September 16, 1996 after the last date for withdrawal of candidatures was over. Later on, the particulars of the proposers of Shri Babloo Srivastava were investigated by the SSP, Lucknow and it transpired that out of 10 proposers, 6 proposers denied to have signed his nomination paper. The nomination paper of Shri Srivastava was re-examined by the Returning Officer

21. *Om Prakash Shrivastava v. Election Commission*, W.P No. 1995(MB)/ 1996 (Allahabad High Court).

and he came to the conclusion that his nomination paper was not validly subscribed by the required number of proposers and was liable to be rejected. The Returning Officer then sent a report to the Election Commission for its direction. The Election Commission, on the basis of the said report of the Returning Officer, was satisfied that the name of Shri Srivastava was wrongly included in the list of contesting candidates, and directed under Article 324 of the Constitution that his name be deleted from the contesting candidates' list.

Aggrieved by that order of the Election Commission, the petition was filed before the Allahabad High Court by Shri Babloo Srivastava. He contended that the Returning Officer, having once accepted his nomination paper, had no power under the law to re-examine his nomination paper and that the Election Commission could not have directed the deletion of his name from the list of contesting candidates.

The High Court dismissed the writ petition, holding that the Election Commission had rightly exercised its plenary powers under Article 324 of the Constitution in the facts of the present case, as such situation or contingency was not contemplated in the Representation of the People Act, 1951 and rules framed thereunder. The Court also held that it could not interfere with the order of the Election Commission in view of Article 329 (b) of the Constitution, as the election was still in progress.

Harbans Singh Jalal v. Union of India²² (1997)

The Election Commission announced the programme for the general election to the Punjab Legislative Assembly on December 30, 1996. Simultaneously, the Commission informed the State Government and all other authorities concerned that the Model Code of Conduct would come into effect from the date of announcement of the election schedule by the Commission (i.e., on December 30, 1996). Prior to the announcement of the election schedule by the Election Commission, the political party in power in the State, namely, Indian National Congress, had announced certain welfare measures and schemes at a State level conference on December 22, 1996. These welfare measures and schemes were to be implemented with effect from January 1, 1997. Enforcement of Model Code of Conduct from December 30, 1996 affected the implementation by the State Government of the said welfare schemes from January 1, 1997. The writ petition was filed before the Punjab and Haryana High Court contending, inter alia, that the Model Code of Conduct could be brought into force only from the date of actual notification of the election by the Governor of the State and not from the date of announcement of the election schedule by the Election Commission and that the Election Commission could not control the activities of the Government during the period between the announcement of the election schedule and the notification of the election by the Governor.

22. *Harbans Singh Jalal v. Union of India*, (1997) 116 PLR 778.

The High Court dismissed the writ petition, holding that the Election Commission is entitled to take necessary steps for the conduct of a free and fair election, even anterior to the date of issuance of notification of election by the Governor, and from the date of announcement of the election by the Commission. While doing so, the Model Code of Conduct adopted to be followed by all political parties, can be directed by the Commission to be followed from the date of announcement of election schedule by it.

Kotha Dass Goud v. Returning Officer & Ors.²³ (1998)

Shri Kotha Dass Goud was convicted for certain offences under the Indian Penal Code and sentenced to undergo two years imprisonment. He was released from jail on December 17, 1994 after serving out the sentence. He was thus disqualified under Section 8 (3) of the Representation of the People Act, 1951 for a further period of 6 years since his release on December 17, 1994. Yet, he filed his nomination paper for the election to the House of the People from 41-Nalgonda Parliamentary Constituency in Andhra Pradesh on August 21, 1998, suppressing the fact of his conviction and imprisonment, and filed a false affidavit before the Returning Officer. For want of information about the conviction of Shri Goud and on the basis of false information furnished by him, the Returning Officer accepted his nomination paper and included his name in the list of contesting candidates. Subsequently, the Returning Officer received information from the Commissioner of Police, Hyderabad about the conviction of Shri Goud. Thereupon, in consultation with and as per the direction of the Election Commission, he gave a notice to Shri Goud on February 6, 1998 as to why his nomination paper should not be treated as invalid, and fixed a hearing for the purpose on February 7, 1998. Shri Goud failed to appear before the Returning Officer and the latter rejected his nomination paper on February 7, 1998 and removed his name from the list of contesting candidates. Against this order of the Returning Officer, the writ petition was filed by Shri Goud, contending, inter alia, that the Returning Officer and the Election Commission had no power whatsoever to delete his name from the list of contesting candidates once his nomination had been accepted and his name included in the said list.

The High Court dismissed the writ petition, holding that in the facts and circumstances of the case, the respondents acted well within their powers in ordering deletion of petitioner's name from the list of contesting candidates by rejecting his nomination in view of Article 324 of the Constitution. The Court also held that the High Court could not interfere in the present case in view of Article 329 (b) of the Constitution, as the election process was still on.

Arjun Singh v. President, Indian National Congress²⁴ (1996)

The Indian National Congress is registered as a political party with the Election Commission under Section 29A of the Representation of the People Act, 1951.

23. *Kotha Dass Goud v. Returning Officer & Ors*, 1998 (2) ALD 118 : 1998 (2) ALT 604.

24. *Arjun Singh v. President, Indian National Congress*, (Election Commission) Dispute Case No. 1 of 1996.

It is also recognized by the Election Commission as a National party under the Election Symbols (Reservation and Allotment) Order, 1968 and the Symbol “Hand” is reserved for it throughout India.

A split took place in the party in 1995, resulting in the formation of two groups headed by Shri P.V. Narasimha Rao and Shri N.D. Tiwari respectively. On January 16, 1996, a petition was filed by Shri Arjun Singh, claiming to be the working President of Indian National Congress, before the Election Commission under para 15 of the Symbols Order, praying for a declaration that the group headed by Shri N.D. Tiwari was the real Indian National Congress. The petitioner prayed, in the alternative, that the said group may be recognized as All India Indira Congress and allotted a new Symbol. The matter was heard by the Commission on February 12 and 13, 1996. Applying the test of majority as upheld by the Supreme Court in the case of *Sadiq Ali v. Election Commission of India*²⁵, the Commission, by a majority decision (2:1), decided on March 12, 1996 that the group headed by Shri P.V. Narasimha Rao was the Indian National Congress, as it enjoyed superior majority support both in the organizational and legislature wings of the party. The Commission also rejected the case of the petitioner that the other group was not functioning according to the provisions of the party constitution.

The Commission, however, observed that the Indian National Congress, as well as a large number of other political parties, had failed to hold their organizational elections for years and had been functioning on ad-hoc basis. The Commission, therefore, decided to issue independent notices to all such parties to ensure that they complied with the provisions of their party constitutions to hold regular periodic organizational elections.

N.P. Ponnuswami v. The Returning Officer, Namekkal Constituency²⁶ (1952)

The nomination papers of the appellant were rejected by the Returning officer at the time of scrutiny on November 28, 1951. Aggrieved by the order of the Returning Officer, the appellant moved the Madras High Court under Article 226 of the Constitution. The High Court dismissed the writ petition on the ground that it had no jurisdiction to interfere with the order of the Returning Officer in view of the provisions of Article 329 (b) of the Constitution. The appellant then moved an appeal before the Supreme Court. The Supreme Court also dismissed the appeal confirming the view of the High Court. The Supreme Court held that the word “election” in Article 329 (b) connotes the entire electoral process commencing with the issue of the notification calling the election and culminating in the declaration of result, and that the electoral process once started could not be interfered with at any intermediary stage by Courts.

25. *Sadiq Ali v. Election Commission of India*, AIR 1972 187 : 1972 SCR (2) 318.

26. *N.P. Ponnuswami v. The Returning Officer, Namekkal Constituency*, AIR 1952 SC 64 : (1952) 1 SCR 218.

Election Commission of India v. Saka Venkata Rao²⁷ (1953)

Shri Saka Venkata Rao was convicted by the Session's Judge of East Godavari and sentenced to a term of 7 years rigorous imprisonment in 1942. In June, 1952, he was elected to the Madras Legislative Assembly at a by-election held from the Kakinada Assembly constituency. Disqualification of appellant arose in the assembly qua his conviction. The case was forwarded by the Governor to the Election Commission for its opinion, as required by Article 192(2) of the Constitution. Shri Rao moved the case to the Madras High Court under Article 226 of the Constitution, contending that Article 192 of the Constitution was applicable only where a member of a State Legislature became subject to disqualification after he was elected, but not where the disqualification arose long before the election. A single judge of the Madras High Court upheld the contentions of Shri Rao, and held that Article 192 applied only to cases of supervening disqualification and the Election Commission had, therefore, no jurisdiction to opine on the Petitioner's disqualification which arose long before the election took place. Aggrieved by the order of the High Court, the Election Commission filed an appeal before the Supreme Court. The Supreme Court dismissed the appeal, confirming and upholding the view taken by the High Court.

Brundaban Nayak v. Election Commission of India and Another²⁸ (1965)

Shri Brundaban Nayak was elected to the Legislative Assembly of Orissa from the Hinjili constituency in Ganjam District in 1961. On August 18, 1964, one Shri P. Biswal applied to the Governor of Orissa under Article 192(1) of the Constitution, alleging that Shri Nayak had incurred disqualification subsequent to his election under Article 191 (1) (e) of the constitution read with Section 7 (d) of the Representation of the People Act, 1951. The Governor referred the matter to the Election Commission for its opinion. Appellant moved the case to Punjab High Court by a Writ Petition under 226 of the Constitution. The High Court dismissed the writ petition in limine. Shri Nayak then filed the present appeal before the Supreme Court. The Supreme Court also dismissed his appeal holding that the question of disqualification of a sitting member of a State Legislature could be raised before the Governor by any citizen under Article 192 (1) of the Constitution, and that the Election Commission had the jurisdiction to make the enquiry into the question of such disqualification referred to it under Article 192 (2) of the Constitution.

Meghraj Kothari v. Delimitation Commission and Others²⁹ (1967)

Shri Meghraj Kothari, a resident of Ujjain, filed a writ petition before the Madhya Pradesh High Court, challenging the order dated July 24, 1964 of the Delimitation

27. *Election Commission of India v. Saka Venkata Rao*, AIR 1953 SC 210 : (1953) 4 SCR 1144.

28. *Brundaban Nayak v. Election Commission of India and Another*, AIR 1965 1892 : 1965 SCR (3) 53.

29. *Meghraj Kothari v. Delimitation Commission and Others*, AIR 1967 669 : 1967 SCR (1) 400.

Commission, whereby that Commission had inter alia reserved the Ujjain Parliamentary Constituency for the Scheduled Castes. The High Court dismissed the petition on February 25, 1965. Aggrieved by that order, Shri Kothari filed the appeal before the Supreme Court. The Supreme Court dismissed the appeal, confirming the view taken by the High Court. The Supreme Court held that the objection to the delimitation of constituencies could only be entertained by the Delimitation Commission and not by any Court in view of the prohibition contained in Article 329 (a) of the Constitution.

Pashupati Nath Singh v. Harihar Prasad Singh³⁰ (1968)

The nomination of Shri Pashupati Nath Singh, at the general election to the Bihar Legislative Assembly from Dumraon Assembly Constituency in 1967, was rejected by the Returning Officer, on the ground that he had not made and subscribed the requisite oath or affirmation, as required by Article 173 (a) of the Constitution. He challenged the election of the returned candidate by an election petition on the ground that his nomination was improperly rejected by the Returning Officer. His election petition was dismissed by the Patna High Court, whereupon he filed the appeal before the Supreme Court. The Supreme Court dismissed his election appeal holding that he should have been qualified under Article 173 (a) of the Constitution on the date fixed for scrutiny of nominations and, therefore, he should have taken the oath before the commencement of the date of scrutiny of nominations and not on the date of scrutiny of nominations. The Supreme Court also held that the oath or affirmation cannot be made by a candidate before he has been nominated as a candidate.

Sadiq Ali v. Election Commission of India³¹ (1972)

The Indian National Congress is a recognized National Party under the provisions of the Election Symbols (Reservation and Allotment) Order, 1968. There was a split in that party in 1969, resulting in the formation of two groups led by Shri Jagjivan Ram and Shri Nijalingappa respectively. As each group contended that it was the party, the Election Commission adjudicated the dispute between the two rival groups of the party under para 15 of the said Order. After recording the evidence and hearing detailed submissions of both the groups, the Commission came to the conclusion that the group led by Shri Jagjivan Ram enjoyed the majority support, both in the Organizational and Legislature wings of the party, and, consequently, recognized that group as the Indian National Congress, by its order dated January 11, 1971.

The rival group led by Shri Nijalingappa felt aggrieved by the Election Commission's aforesaid order and filed the present appeal before the Supreme Court by way of Petition for Special Leave to Appeal under Article 136 of the Constitution. The Supreme Court dismissed the appeal and upheld the order of

30. *Pashupati Nath Singh (Appellant) v. Harihar Prasad Singh*, AIR 1968 1064 : 1968 SCR (2) 812.

31. *Sadiq Ali v. Election Commission of India*, AIR 1972 187 : 1972 SCR (2) 318.

the Election Commission. The Supreme Court held that the test of majority or numerical strength applied by the Commission for determining the dispute was a relevant and valuable test, and rightly applied by the Commission.

The Supreme Court also held that para 15 of the Symbols Order was not ultra vires the powers of the Election Commission under Article 324 of the Constitution. Further, the Court held that an election symbol is not property of the party concerned.

Indira Nehru Gandhi v. Raj Narain & Another³² (1975)

Smt. Indira Nehru Gandhi was elected to the House of the People from Rae Bareilly Parliamentary Constituency in March, 1971. Her election was challenged by one of the rival candidates Shri Raj Narain, before the Allahabad High Court by an election petition. The High Court, by its judgment and order dated June 12, 1975, allowed the election petition and declared the election of Smt. Indira Nehru Gandhi as void. The High Court held that Smt. Gandhi had procured assistance of Shri Yashpal Kapoor, a Gazetted Officer of the Government of India, the District Magistrate and Superintendent of Police, Rae Bareilly, the Executive Engineer, PWD, and the Engineer, Hydel Department, for her election campaign and had thus committed corrupt practices under Section 123 (7) of the Representation of the People Act, 1951. Aggrieved by the order of the Allahabad High Court, Smt. Indira Nehru Gandhi filed the appeal before the Supreme Court. A cross-appeal was also filed by Shri Raj Narain. During the pendency of these appeals, Parliament passed the Election Laws (Amendment) Act, 1975. By this Amendment Act, several provisions of the Representation of the People Act, 1951 were amended retrospectively. Further, Parliament also passed the Constitution (Thirty-ninth Amendment) Act, 1975. By this Amendment Act, a new Article 329-A was inserted into the Constitution to provide, inter alia, that the election to Parliament of a person, who holds office of Prime Minister or Speaker of the Lok Sabha at the time of such election or is appointed as Prime Minister or Speaker after such election, shall be called in question only before a specially prescribed authority [and not before the High Court under Article 329 (b) of the Constitution]. Furthermore, by the said Amendment Act, Parliament also validated the election of Smt. Indira Nehru Gandhi. The validity of the above mentioned two Amending Acts also became subject matter of the present appeals. One of the grounds of attack on the validity of these Acts was that many members of Parliament were subjected to preventive detention after the Proclamation of Emergency in June, 1975 and, therefore, these Acts had not been validly passed by Parliament in their absence. The Supreme Court, in the appeals, upheld the validity of the Election Laws (Amendment) Act, 1975 and also the validity of the Constitution (Thirty-ninth Amendment) Act, 1975, except that part of the latter Act whereby Parliament had validated the election of Smt. Indira Nehru Gandhi. Applying the law, as amended retrospectively by the aforesaid Election Laws (Amendment) Act, 1975, the Supreme Court

32. *Indira Nehru Gandhi v. Raj Narain & another*, AIR 1975 SC 2299.

upheld the election of Smt. Indira Gandhi to the House of the People, allowing her appeal, and rejecting the cross-appeal of Shri Raj Narain.

All Party Hill Leaders Conference v. W.A. Sangma³³ (1977)

The All Party Hill Leaders' Conference is a recognized State Party in the State of Meghalaya under the provisions of the Election Symbols (Reservation and Allotment) Order, 1968. A dispute arose between two groups of the party,—one group claiming that the party had merged with the Indian National Congress, a recognized National party, in November, 1976, and the other group contending that the party had not merged and was still continuing as a separate party. The Election Commission heard both the rival groups of the party under paras 15 and 16 of the said Symbols Order and decided, by its order dated February 1, 1977, that the party had merged with the Indian National Congress and ceased to exist as a separate party.

Aggrieved by that order of the Election Commission, the appeal was filed before the Supreme Court. The Supreme Court reversed the order of the Election Commission and held that the party has not merged with the Indian National Congress and continued to maintain its separate existence, despite majority of its members having joined the Indian National Congress. The Supreme Court laid down the principle that in the matter of merger of political parties, the general membership of the party has a vital say and has to be consulted, which had not been done in the present case. The Supreme Court also held that if the members who claimed to continue the party answered the test laid down in the Symbols Order for recognition as a State Party, the party would continue to be recognized by the Election Commission.

The Supreme Court also held that the Election Commission, while deciding a dispute under para 15 or 16 of the Symbols Order, is a Tribunal within the meaning of Article 136 of the Constitution and appeal from its orders under those paras would lie to the Supreme Court under the said Article 136.

Narendra Madivalapa Kheni v. Manikarao Patil³⁴ (1977)

The election to the Karnataka Legislative Council from the Bidar Local Authorities' Constituency, held in May, 1974, was called in question by an election petition. According to the calendar for the election notified by the Election Commission, April 17, 1974 was the last date for making nominations in the constituency. Nominations on that day could be filed up to 3 pm. It was alleged in the election petition that certain names of electors were fraudulently entered into the electoral roll after 3 pm on the last date for filing nominations, in contravention of Section 23 (3) of the Representation of the People Act, 1950. The High Court accepted the plea of the election petitioner and declared the election of the returned candidate as void, holding that the electors whose names were added to the electoral roll in

33. *All Party Hill Leaders Conference v. W.A. Sangma*, AIR 1977 SC 2156 : (1977) 4 SCC 161.

34. *Narendra Madivalapa Kheni v. Manikarao Patil*, 1978 SCR (1) 208.

contravention of Section 23 (3) of the R.P. Act, 1950 had no right to vote and their votes were improperly accepted which materially affected the result of election.

The returned candidate whose election was declared void by the High court filed an appeal before the Supreme Court. The Supreme Court upheld the order of the High Court, holding that the electoral roll for any election becomes final at 3 pm on the last date for making nominations and that no inclusion, deletion or correction could be made in the electoral roll thereafter, which would be illegitimate and illegal in view of Section 23 (3) of the Representation of the People Act, 1950.

Mohinder Singh Gill v. Chief Election Commissioner³⁵ (1977)

At the 1977-general election to the House of the People, the poll in the Ferozepur Parliamentary Constituency was taken on March 16, 1977. The said Parliamentary Constituency consists of 9 assembly segments. Counting in five of these assembly segments was completed on the March 20, 1977 and in the remaining four on March 21, 1977. The respective Assistant Returning Officers made entries in the result sheet in Form-20 and announced the number of votes received by each candidate in their assembly segments. According to this result sheet, Shri Mohinder Singh Gill, the petitioner, was leading over his nearest rival by 1921 votes. Only 769 postal ballot papers then remained to be counted by the Returning Officer. He took up the counting of these postal ballot papers at his Headquarters at Ferozepur on March 21, 1977 at 3 pm, and rejected 248 out of the said 769 postal ballot papers. At that stage, there was some mob violence in the counting hall and the postal ballot papers remaining to be sorted out and counted candidate-wise were burnt. Further, all the ballot papers and the others election records of the Fazilka assembly segment were also burnt and destroyed when these ballot papers and records were under transit from Fazilka to Ferozepur. Furthermore, some envelopes containing some ballot papers and other election records of Zira assembly segment were also likewise destroyed when under transit from Zira to Ferozepur. The Election Commission, on March 22, 1977, on receipt of reports about these disturbances and destruction of election records, including a report from one of its own Under Secretaries who was present at Ferozepur as an Observer, declared the poll taken on March 16, 1977 in the entire Ferozepur Parliamentary Constituency as void and directed a fresh poll to be taken on a date to be notified by it later. This order of the Election Commission was challenged by the petitioner, Shri Mohinder Singh Gill, by a writ petition before the Delhi High Court. The Delhi High Court dismissed the writ petition, upholding the order of the Election Commission, and also holding that the writ petition was barred by the provisions of Article 329 (b) of the Constitution.

The appeal before the Supreme Court was filed by Shri Mohinder Singh Gill, being aggrieved by the High Court's order. The Supreme Court dismissed the appeal, holding that the order of the Election Commission directing a re-poll was a step in the process of election and as the election process was not yet complete, the

35. *Mohinder Singh Gill v. Chief Election Commissioner*, AIR 1978 851 :1978 SCR (3) 272.

writ petition under Article 226 the challenging Commission's order was not maintainable in view of the bar under Article 329 (b) of the Constitution. The Supreme Court examined at length the provisions of Article 324 of the Constitution and held that the Election Commission may be required to cope with some situation in the conduct of elections which may not be provided for in the enacted laws and the rules and that Article 324 of the Constitution was a reservoir of power for the Election Commission to act in such vacuous area, in its own right, as a creature of the Constitution. The Supreme Court also held that Article 329 (b) was a blanket ban on litigative challenges to electoral steps taken by the Election Commission and its officers to complete an election. Election, in this context, has a very wide connotation commencing from the notification calling the election and culminating in the final declaration of the returned candidate.

AIADMK v. Chief Election Commissioner³⁶ (2001)

Validity of Section 61(A) of the R.P. Act, 1951, as challenged in *A.C. Jose v. Sivan Pillai and others*,³⁷ was questioned in the petition but the Supreme Court held that High Court of Madras was right to uphold the validity of said Section. It also observed that Articles 326 and 327 cannot be so interpreted as to enable the taking away the jurisdiction or to abridge the powers of the Election Commission under Act 324. Articles 326 and 327 cannot be so interpreted as to enable the taking away the jurisdiction or to abridge the powers of the Election Commission under Article 324.

UOI v. Association of Democratic Reform³⁸ (2002)

This was a petition to implement the recommendations made by Law Commission in its 170th report and to make necessary changes under Rule 4 of Conduct of Elections Rules, 1961 regarding debarring a candidate from contesting election if charges have been framed against him/her by a Court in respect of certain offences and necessity for candidate to furnish details of criminal cases, if any, pending against him. It also suggested that true and correct statement of assets owned by the candidate should also be disclosed. The petitioners pointed out nexus between criminals and candidates as highlighted in Vohra Committee report. The Supreme Court held that High Court has ample jurisdiction under Article 32 read with Articles 141 and 142 of Constitution of India to issue necessary directive to subserve public interest, to fill the void in absence of suitable legislation.

Indian National Congress (I) v. Institute of Social Welfare & Ors³⁹ (2002)

In the writ petitions filed before the High Court it was alleged that despite the law having declared by Supreme Court that calling of a bandh is un-constitutional,

36. *AIADMK v. Chief Election Commissioner*, 2001 (4) SCALE 558 : 2001(8) SLT 518(1).

37. 1984 (3) SCR 74.

38. *UOI v. Association of Democratic Reforms & Another*, 2002 (3) SCR 294.

39. *Indian National Congress (I) v. Institute of Social Welfare & Ors.*, [2002] INSC 270.

political parties in Kerala state continue to call bandh under the name and cover of hartal and so sought to deregister CPM for said violation. The petitioners prayed for enforcement of decision in the case of *CPI (M) v. Bharat Kumar & Others* (AIR 1998) SC 184. The petitioners also submitted that the Election Commission did not take any action in this behalf to deregister the parties. The Court held that there is no express provision in law which empowers the Election Commission to deregister any party on the ground of violation of the Constitution of India except for certain exceptional cases where party is found to have obtained registration by fraud, a case arises out of sub-Section (9) of Section 29A of R.P. Act, 1951 or a party is declared unlawful.

***Special Reference No.1 of 2002*⁴⁰ (Gujarat Election Reference case)**

The Supreme Court appreciating the action of the Election Commission in scheduling the election in such a way that the first session of the next Assembly meets within a period of six months of the last sitting of the dissolved Assembly, took a view this by itself is no reason to interpret that Article 174 would apply to dissolved Assembly and that frequency of meeting as provided under Article 174 would apply to a live Assembly. The Supreme Court of India held that Article 174 and Article 324 operate in different fields. Article 174 does not apply to a dissolved Assembly but relates to existing and functional Assemblies. The question of one yielding to the other does not arise and it also opined that since Article 174(1) is inapplicable to a dissolved Legislative Assembly, there is no infraction of the mandate of Article 174(1) in preparing for elections to an Assembly by the Election Commission.

***PUCL & Anr v. UOI*⁴¹ (2003)**

Some of the directions which were issued by Supreme Court in Association for Democratic Reforms case have been incorporated in the amended Act but with regard to remaining directions, it has been provided therein that no candidate shall be liable to disclose or furnish any such information in respect of his election which is not required to be disclosed or furnished under the Act and Rules made there under. Therefore the provisions of Section 33B were challenged.

The Court held that:

- (a) Legislature is entitled to change the law with retrospective effect which forms the basis of a judicial decision but this exercise of power is subject to constitutional provision, therefore, it cannot enact a law which violates fundamental right.
- (b) Amended Act does not wholly cover the directions issued by the Court. On the contrary, it provides that candidate would not be bound to furnish certain information as directed by the Supreme Court.

40. *Special Reference No.1 of 2002*, (2002) 8 SCC 237.

41. *PUCL & Anr v. UOI*, AIR (2003) SC 2363.

- (c) The judgment rendered in Association for Democratic Reforms has attained finality and therefore there is no question of interpreting constitutional provision.
- (d) Right to vote would be meaningless unless the citizens are well informed about the antecedents of a candidate. The amended law is deficient in ensuring free and fair elections.
- (e) The attempt of the Court should be to expand the reach and ambit of the fundamental rights by process of judicial interpretation and it has been done by this Court consistently.

RamPhal Kundu v. Kamal Sharma⁴² (2004)

In Haryana Legislative Assembly held in year 2000 two candidates from the same constituency and from the same party filed nominations. The Returning Officer accepted Sh. Bachchan Singh and the nomination paper of Shri Kamal Sharma was rejected. On a representation made to the Election Commission, the Election Commission directed the Returning Officer to conduct fresh scrutiny. After re-scrutiny, the Returning Officer again accepted the nomination of Shri Bachchan Singh and rejected the nomination of Shri Kamal Sharma. The High Court had allowed the election petition filed by Shri Kamal Sharma. The Supreme Court set aside the order of High Court and held that the Returning Officer had rightly rejected the nomination of Shri Kamal Sharma based on the documentation scrutiny.

Manda Jaganath v. K.S. Rathnam⁴³ (2004)

Shri K.S. Rathnam filed his nomination paper to contest elections from Nagarkurnool Parliamentary Constituency in Andhra Pradesh in 2004. On scrutiny of nomination paper, the Returning Officer found that Form B submitted by the respondent was blank in columns 2 to 7. The Returning Officer rejected the form and accepted the nomination paper and treated the respondent as independent candidate. The respondent filed a writ petition before the High Court praying for direction in nature of mandamus declaring the action of Returning Officer as illegal. High Court passed the interim order setting aside the decision of Returning Officer. The appellant (Returning Officer) filed an appeal before Supreme Court on the grounds that High Court has no jurisdiction to entertain the petition after election process had started. Supreme Court held that it is a matter to be decided in an election petition and set aside the impugned order of High Court and dismissed the writ petition pending before the High Court.

K. Prabhakaran v. P Jayarajan⁴⁴ (2002)

This is a Constitution Bench judgment involving interpretation of Sections 8 (3) and 8 (4) of the Representation of the People Act 1951. Two appeals have been disposed of by this judgment.

42. *RamPhal Kundu v. Kamal Sharma*, AIR 2004 SC 1657 : (2004) 2 SCC 759.

43. *Manda Jaganath v. K.S. Rathnam*, AIR 2004 SC 3600 : (2004) 7 SCC 492.

44. *K. Prabhakaran v. P Jayarajan*, AIR 2002 SC 3393 : (2002) 8 SCC 79.

The Supreme Court held that the words “any offence” used in Sub-Section (3) of Section 8, refers to nature of offense and not the number of offenses and that it is immaterial whether the sentence awarded is in respect of one offense or more than one. Accordingly, in a majority judgment, it was held that in the case of conviction in a common trial for various offenses with sentences of imprisonment of various period ordered to run consecutively, the different periods shall be added up, and if the total period on such adding up, is two years or more, disqualification provision under sub-Section (3) of Section 8 is attracted. On the other issues, the judgment was unanimous. It was held that the protection under sub-Section (4) of Section 8 would be available only for protecting the membership in the House of which the convicted person was a member on the date of conviction and not for protecting against disqualification for contesting future elections. It was held that for the purposes of Section 100 (1) (d) (i), the question of qualification or disqualification of a candidate shall be determined with reference to the date on which he was declared elected, and that the crucial date for determining the question whether a nomination was improperly accepted by the Returning Officer, is the date of scrutiny of nominations. It was held that a decision of a subsequent date, in an appeal against conviction would not have the effect of wiping out disqualification that existed on the focal dates of date of election and date of scrutiny. In both the cases, the decisions given by the High Courts dismissing the Election Petitions were set aside.

Rameshwar Prasad & Ors v. Union of India & Ors⁴⁵ (2006)

The important questions of law having far reaching impact were interpreted and determined in detail by Supreme Court as:

- (i) Is it permissible to dissolve the Legislative Assembly under Article 174(2) (b) of the Constitution without its first meeting taking place?
- (ii) Whether the proclamation dated May 23, 2005 dissolving the Assembly of Bihar was illegal and unconstitutional?
- (iii) If the answer to the aforesaid question was in affirmative, was it necessary to direct status quo ante as on March 7, 2005?
- (iv) What is the scope of Article 361 granting immunity to the Governor?

In their majority, the Supreme Court interpreted the above issues and held that –

- (i) There is no restriction under Article 174(2)(b) stipulating that the power to dissolve the Legislative Assembly can be exercised only after the first meeting of the Assembly.
- (ii) Proclamation dated May 23, 2005 of President Rule was held to be unconstitutional.

45. *Rameshwar Prasad & Ors v. Union of India & Ors*, (2006) 2 SCC 1.

- (iii) Having regard to the larger public interest and keeping in view the ground realities that the Election Commission, as a result of the impugned proclamation, had not only made preparations for the four phase election in Bihar but had also issued notification in regard to first two phases before conclusion of arguments, the relief was molded by not directing *status quo ante* and consequently permitting the completion of the already set election process.
- (iv) The Governor enjoys complete immunity under the law and he is not answerable to any Court for the exercise and performance of the power and duties of his office. However, the immunity granted by Article 361(1) does not take away the power of the Court to examine the validity of the action including the ground of *malafides*.

Michael B. Fernandes v. C.K. Jaffar Sharief & Ors⁴⁶ (2002)

In the Lok Sabha general election in 1999, EVMs were used for taking poll in 45 constituencies spread over 17 States/Union Territories. Bangalore North Parliamentary Constituency in Karnataka was one such constituency where EVMs were used. Election for this constituency was challenged by Shri Michael Fernandes, who was a candidate at that election, in an election petition before the Karnataka High Court. The Election Commission, the Returning Officer and the Chief Electoral Officer, Karnataka reimpleaded as respondents in the Election Petition. By Order dated June 16, 2000, of the High Court, names of these respondents were deleted from the array of respondents. The election petitioner filed an appeal before the Supreme Court against the High Court's order, on the ground that the main questions raised in the election petition were directly concerned with the use of EVMs, maneuverability of the EVMs, non-observance of provisions of law, and tampering of the EVMs to alter the result of election, and hence the provision of CPC, should govern the issue as to who are necessary parties to the election petition. The Supreme Court, relying on the earlier decisions in **Jyoti Basu's case** and **B. Sundara Rami Reddy's case** held that only those numerated in Section 82 of the Representation of the People Act, 1951, could be joined as parties in an Election Petition. The appeal was dismissed.

Secretary, Ministry of Information & Broadcasting v. Gemini TV (Pvt.) Ltd⁴⁷ (2004)

Rule 7(3) of the Cable Television Networks Rules, 1994 prohibits advertisements of religious or political nature on television channels. This Rule was challenged before the Andhra Pradesh High Court in writ petition No. 3959 of 2004 and in some other connected writ petitions. The High Court passed an interim order on March 23, 2004, staying the operation of Rule 7(3). The Ministry of Information

46. *Michael B. Fernandes v. C.K. Jaffar Sharief & Ors*, AIR 2002 SC 1041 : (2002) 3 SCC 521.

47. *Secretary, Ministry of Information & Broadcasting v. Gemini TV (Pvt.) Ltd*, (2004) 5 SCC 714.

and Broadcasting filed an SLP before the Supreme Court against the interim order dated March 23, 2004. The Supreme Court, in an interim order passed on April 13, 2004, directed that political parties, candidates or any other person or organization, intending to issue advertisement of political nature on TV Channel or Cable Network, should submit an application to the Commission or an officer designated by the Commission along with copies of the proposed advertisements, and it is only after obtaining necessary clearance from the Commission or the designated officer that the advertisement should be shown on TV Channel or Cable Network.

Union of India v. Harbans Singh Jalal & Ors⁴⁸ (1997)

The Punjab and Haryana High Court, by judgment held that model code of conduct could be enforced from the date of announcement of an election. The Union of India filed an SLP before the Supreme Court against this judgment. As the SLP was pending, the issue was settled vide O.M. dated April 16, 2001 of the Ministry of Law and Justice issued in consultation with the Commission. In view of the O.M. dated April 16, 2001, the SLP and connected matters were disposed of by the Supreme Court.

Jaya Bachchan v. Union of India⁴⁹ (2006)

After obtaining the opinion of the Election Commission as required by Article 103(2) of the Constitution of India, the President of India in exercise of powers conferred under clause (1) of Article 103 had decided that the petitioner stands disqualified for being a Member of Rajya Sabha on and from July 14, 2004.

As per the opinion of the Election Commission rendered to the President of India under clause (2) of Article 103 that the petitioner became disqualified under Article 102(1)(a) of the Constitution for being a Member of Rajya Sabha on July 14, 2006 as on her appointment by the Government of Uttar Pradesh as Chairperson of the U.P. Film Development Council terming the same as “office of profit” under the Government of Uttar Pradesh.

The petitioner challenged both the said decisions of the President of India as well as the opinion of the Election Commission rendered by it to the President of India.

The Supreme Court held that the office did carry with it a monthly honorarium of Rs. 5,000/- entertainment expenditure of Rs. 10,000/-, other facilities including free accommodation and medical facilities and that these were pecuniary gains, cannot be denied. Thus, Supreme Court found no merit in the writ petition and the same was accordingly dismissed.

Maharaja Dhritarashtra vigilantly interpreted every case and observed the judgments passed by the Courts. Thereafter, he spoke, “Sanjay! The Indian

48. *Union of India v. Harbans Singh Jalal & Ors*, (1997) 116 PLR 778.

49. *Jaya Bachchan v. Union of India*, (2006) 5 SCC 266.

Judiciary is indeed commendable, loquacious, precise, agile, gallant and consistent. My spirit has encountered the bliss of conquering a mountain of injustice, perplexity, uncertainty, duality, immorality and anarchy. The Indian Judiciary indeed lives up to its independence to ensure the protection of the democratic spirit of free and fair elections. The Indian Judicial System appears established, unbiased, uncontrolled, undominated, integral and orderly. The resonance and infliction of the orders passed by various judges is satisfactory, unobliterated, wise, consistent, substantiated and displays sequential progression of legal and cerebral maturity. I am Dhritarashtra, the name was expected to project someone who supports or bears the Nation. My insatiable desire to live the glory of my name feels pacified with the acts of these Kalyugi Judges. I bless them with all my heart.”

Then Sanjay spoke, “Maharaj, like the coin has two sides, while Supreme Court of India, High Courts and Election Commission have indeed done commendable works in regard to electioneering process but looking at the situation prevailing as on date, a lot appears to be desired and this lacuna cannot be overlooked.”

CHAPTER 18

ELECTIONOMICS

Boost your Electionomics, not just for Elections but for Generations!

“Sanjay, I am blind. The darkness is my fate. But, when I refused to succumb to the darkness being pushed on to my kin, I became the subject of public abomination and history declared me a perpetrator. Tell me Sanjay, who were they to proclaim my rightful throne for the illegitimate sons of my younger brother. They used ‘Dharma,’ to establish their loathing for me and my offspring. It was an unequivocally unjust bequeathing, first, in favor of my younger brother, then the bastard of his wife. No one voiced for me. My wife, the ardent worshipper of Lord Shiva who submissively shrunk herself to a blindfolded handicap and a domesticated mother to my 100 children, also shared my extreme agony till our children ripen into their youth.

The time was kind, it brought strength to the life of our beloved Duryodhana and he raised his voice. Sanjay! My son was neither blind nor incompetent. How could I coerce him to endure similar suffering of being subdued? The courage of his voice assuaged my spirit. I and my wife had lived such deserted, isolated, downtrodden and subjugated lives that we had to procreate our own allies, our sons. Our children were our hope, our light, and our mission to reclaim our unclaimed esteems. We gave in all we had but we lost, all of it. Sanjay! Time is unjust, apathetic, unkind, untrustworthy, unfriendly, unscrupulous, erroneous and deceitful.” Maharaja lamented aloud.

Sanjay waited for an opportunity to intervene but couldn’t withstand the valiant outcry of Maharaja.

“Do you know Sanjay, I find myself being cajoled by this evil current of Kalyuga; it at least permits the genius exploitation of the Law of the Land. Once the loopholes are impinged and exploited, the settled position becomes legitimate instead of the burdensome guilt of committing ‘adharma’ which burns the soul and degrades the afterlives. Look at these unethical, dubious, corrupt, power hungry and manipulative politicians lacking every bit of moral fiber, succeeding and gaining roaring heights, sailing along the evil stream. My Kauravas had definitely seen the light of the day if born in times like this? Time manhandled me and my kin and put us in its unsuitably incompatible bucket. We were mere victims of dissimilarity!”

Sanjay laughed aloud. It was outrageous. He was a meek servant. He couldn't have disrespected his Master. He was under an oath. It was "adharmā" to violate it. He must worry for his own soul. But he worried more for his master's.

"Maharaj," he bowed his head and joined his numb palms, "Legal or illegal, what is ethical is ethical and what is unethical is unethical. This era or that era, being sinful would eventually dig your guts out, make you shallow and desolate you from all your beloveds." Sanjay went silent for a while in stirring realization, since he had ended up mentioning the condition of his own King who had committed inaction in favor of condoning "adharmā."

The droplets of tears appeared at both ends.

Sanjay spoke in a brittle voice, "Maharaj, the truth is truth. It's omnivorous, omnipresent and omniscient. If you had desired your children to rise to the heights of eminence, you had to invest your time mending their ways when it was time, when their hearts were soft petals of buds when their minds were fresh, tender and pure, that was the time you could have institutionalized the light of 'Dharma' in their springing youth. But Maharaj, your failure sprang out routinely throughout the destructive melodramas of their childhood. Their disaster was stamped into eternity when your beloved Duryodhana, exercising his upper hand of choice, discarded 'the Lord Krishna' over his one akṣhauhiṇī Narayani Sena. Your son grew up to be immature, delusional, *tamasik* (materialistic), infernal, foolish to choose Lord's Maya (illusion of army) over the Lord himself.

Maharaj, this era or that era, your son or a son of a commoner, whoever discards the Lord and his light of wisdom over the illusion of Materialism, would be doomed once the limit of his temporary engrossment expires. Time implements the Karmic Rule of Law, hence, Maharaj, I plead that you must never underestimate or begrudge Time. Since you have witnessed the phenomenon of the Lord yourself during the epic catastrophe, let me remind you, what we have been told by Rishi Vyasa already:"

यतः कृष्णस्ततो धर्मो
यतो धर्मस्ततो जयः ॥

Where there is Krishna, there is Dharma,
and where there is Dharma, there is victory.

– Mahabharata, the Epic.

"Sanjay!" Maharaj echoed the rage of his late, beloved son for a moment. "Your assertion is arbitrary, unstable, flimsy, unsubstantiated, untenable and ungrounded. The Kalyuga encloses Lord Krishna as a memory and abstraction. In such a scenario, when these charlatans who are intensely dubious, corrupt, power-hungry, abusive, vicious and commanding, when they can survive the

current of Kalyuga cuddling in the lap of Maya (materialism) discarding the wisdom of Krishna, why would you still try to ascertain that my beloved son would fail even in this era. You sabotaged even the tiniest bit of the placidness that I could have attained. You must apologize for your incorrect assertion.”

“Maharaj, I agree the devilish current of Kalyuga supports the sinister for a longer duration and assists easier progression but Maharaj, one reaps what one sows. The law of cause and effect is functional in absolutism. No life is above the Law. Krishna may not be bestowing this civilization with his physical appearance but his wisdom still torches the dark worlds and underground dungeons of the sinking human lives.

The evidence to my assertion is that this modern malevolent world still goes on to see its Sun every day. The inhabitants vigorously swirl around in procuring, ingesting and combusting energy. The refreshing evenings invite the reign of the moon in the sky. It goes on.

If Gods had ceased functioning, the world would have stopped. Let me recite a *shloka* from our revered, the God of Gods, the creator, the omnipotent, the omniscient, the omnipresent, the unfathomable, the compassionate, the merciful, the heavenly, the infinite, the supreme absolute, the universal teacher, the dearest Lord Krishna.”

उत्सीदेयुरिमे लोका न कुर्याकर्म चेदहम् ।
सङ्करस्य च कर्ता स्यामुपहन्यामिमाः प्रजाः ॥ 24॥

utsīdeyurimelokānakuryāṁ karma chedaham
sankarasya cha kartāsyāmapahanyāmimāhprajāḥ

-Chapter 3, Text 24, Shrimad Bhagavad Gita

Meaning:

If I ceased to perform prescribed actions, all these worlds would perish. I would be responsible for the pandemonium that would prevail and would thereby destroy the peace of the human race.

“Maharaj, the Gods still protect, who needs to be protected, the Gods still feed who needs to be fed, Gods still shelter who needs to be sheltered, Gods preserve who needs to be preserved. Even the evil feeds on the good to exist. The very presence of a living world ascertains the existence of God. Do not refute what you must not, Maharaj.”

The reverberation of *shloka* triggered deep respirations and Maharaj restored composure, “Sanjay! I cannot refute, what is irrefutable. The Gods are invoked by the goodness of people. You are correct in your assertion that the collective conscious of Earth is good enough to pull the Gods. These people are my dearest Arjunas. Their hearts conserve the ethics, goodness and purity that pulls Lord Krishna. I admit Sanjay, my Duryodhana had failed to establish his being as a morally sound person, his Karmas and inclinations were out of the

ethical lines. When he got my daughter-in-law Draupadi dragged by her hair in my court that was the time, his devilish traits had completely overpowered him. Quiet, I stayed and so I must, stay quiet, even now. People like my son, would discard the wisdom of Krishna, even when offered and choose the illusion of momentary accomplishments. This era too has Duryodhanas but also has Arjunas as its hope. They, who undergo hardships, who undergo hostility, who undergo financial burdens to fulfill the commitments raked up by their inner voices, are the Hope of this era. I pray to strengthen up their souls that they go on with this indomitable spirit.”

“Maharaj, appreciably the conduct of the Arjunas of the modern world resonate with these words of Krishna...”

कर्मण्येवाधिकारस्ते मा फलेषु कदाचन।
मा कर्मफलहेतुर्भूर्मा ते सङ्गोऽस्त्वकर्मणि॥ 47 ॥

karmaṇy-evādhikārastemāphaleṣhukadāchana
mā karma-phala-heturbhūrmātesaṅgo'stvakarmaṇi

Meaning:

You have a right to perform your prescribed duties, but you are not entitled to the fruits of your actions. Never consider yourself to be the cause of the results of your activities, nor be attached to inaction.

“Maharaj, as their wisdom is clear as a crystal, the goodness of the hearts of Arjunas generates enough momentum that keeps the world going despite of outnumbering devilish personalities. Our Bharat-varsh may have issues of weak moral fiber, opaque political funding, over-population, poor administration, unemployment, corruption, illiteracy, inequality for Women but still each new day has a fresh momentum for betterment. Let me mention about Arjunas of this country. Even some of these devilish politicians perform the Arjuny deeds and so the world keeps on moving with their contribution too.”

“Maharaj, when there is darkness, the talk of light raises the hope and inspires creative interventions and inventions to bring light and displace the darkness. The human minds are powerful, if they churn the facts, they may bring solutions to the problems prevailing in the system and make it work better for the generations to come. India is a country of Youths with more than 50% population below 25 years of age and 65% below the age of 35 years. The youths of India would be immensely benefitted with even smallest but rightful changes in the system. India is full of Arjunas and Arjuny deeds and they would bring a day so bright that this darkness would dissipate. As more and more Arjunas may collaborate and contribute to clean up in the electioneering process, the process would gradually get healthier and the long existing diseases present in the system would be obliterated. However, that would not ensure that the system would stay disease free! It is natural for any system to corrode with time, smart civilizations keep on cleansing the system with right kind of reforms to

keep the system productive, shining and capable. This Electionomics is meant to diagnose the problems. The Arjunas would surely find solution.”

“Maharaj, have faith in the soul of this country. Each person of this country has the potential to be Arjuna and pull the charismatic Lord Krishna’s blessings on them. The struggles, the hardwork, the conviction, the ideology in going against the evil current may be challenging for the honest lawyers, judges, ministers, bureaucrats, police officers, doctors, engineers, actors, social activists, traffic police officers, armed forces, paramilitary forces, media persons, housewives, students, teachers, businessmen and others but they live on being who they are, OUR ARJUNAS!”



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