

SUPREME COURT OF INDIA

Rambabu Singh Thakur

Vs.

Sunil Arora

WP.(C)No.536 of 2011

(R.F.Nariman and S.Ravindra Bhatt,JJ.,)

13.02.2020

JDUGMENT

R.F.Nariman,J.,

1. This contempt petition raises grave issues regarding the criminalisation of politics in India and brings to our attention a disregard of the directions of a Constitution Bench of this Court in *Public Interest Foundation and Ors. Union of India and Anr^l..*

2. In this judgment, this Court was cognisant of the increasing criminalization of politics in India and the lack of information about such criminalization amongst the citizenry. In order to remedy this information gap, this Court issued the following directions:

“116. Keeping the aforesaid in view, we think it appropriate to issue the following directions which are in accord with the decisions of this Court:

116.1. Each contesting candidate shall fill up the form as provided by the Election Commission and the form must contain all the particulars as required therein.

116.2. It shall state, in bold letters, with regard to the criminal cases pending against the candidate.

116.3. If a candidate is contesting an election on the ticket of a particular party, he/she is required to inform the party about the criminal cases pending against him/her.

116.4. The political party concerned shall be obligated to put up on its website the aforesaid information pertaining to candidates having criminal antecedents.

116.5. The candidate as well as the political party concerned shall issue a declaration in the widely circulated newspapers in the locality about the antecedents of the candidate and also give wide publicity in the electronic media. When we say

wide publicity, we mean that the same shall be done at least thrice after filing of the nomination papers.”

3. On a perusal of the documents placed on record and after submissions of counsel, it appears that over the last four general elections, there has been an alarming increase in the incidence of criminals in politics. In 2004, 24% of the Members of Parliament had criminal cases pending against them; in 2009, that went up to 30%; in 2014 to 34%; and in 2019 as many as 43% of MPs had criminal cases pending against them.

4. We have also noted that the political parties offer no explanation as to why candidates with pending criminal cases are selected as candidates in the first place. We therefore issue the following directions in exercise of our constitutional powers under Articles 129 and 142 of the Constitution of India:

1) It shall be mandatory for political parties [at the Central and State election level] to upload on their website detailed information regarding individuals with pending criminal cases (including the nature of the offences, and relevant particulars such as whether charges have been framed, the concerned Court, the case number etc.) who have been selected as candidates, along with the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates.

2) The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere “winnability” at the polls.

3) This information shall also be published in:

(a) One local vernacular newspaper and one national newspaper;

(b) On the official social media platforms of the political party, including Facebook & Twitter.

4) These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.

5) The political party concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.

6) If a political party fails to submit such compliance report with the Election Commission, the Election Commission shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as being in contempt of this Court’s orders/directions.

5. With these directions, these Contempt Petitions are accordingly disposed of.

Judgment Referred.

¹(2019) 3 SCC 0224