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## Press Release

### Delhi Assembly Elections 2025

#### Analysis of Format C7 - Publication of Reasons Given for Selection of Candidates with Criminal Cases by Political Parties

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## Introduction

On 13th February 2020 the Supreme Court had directed political parties ***to list out reasons on their website including their social media platforms for nominating candidates with criminal background within 72 hours of the selection of such candidates***. This direction of the Apex Court had come in the light of a contempt petition filed against the non-implementation of its earlier order dated **25th September, 2018** on publication of criminal cases by candidates and political parties which clearly were not taken very seriously. Consequently, the Supreme Court had reprimanded political parties for failing to widely publish the details of criminal cases pending against the candidates selected by them. Going one step further, the Supreme Court in its directions had also specifically instructed political parties ***to give reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates***. As per these mandatory guidelines, the reasons for such selection have to be with reference to ***qualifications, achievements, and merit of the candidate*** concerned. Sadly, even these directions of the Supreme Court have had no effect on the political parties in selection of candidates as they have again followed their old practice of giving tickets to candidates based on ***‘Muscle and Money power’***. On 15th July 2021 and 20 July 2021, the Supreme Court again considered the contempt by political parties against the wilful disobedience of the Apex Court’s order dated 13th February 2020. While observing the egregious default by political parties, the Supreme Court also stated ***that neither the Legislature nor the Political Parties will ever be keen on taking steps to stop the entry of candidates charged with criminal cases***.

In order to curb this blatant practice of giving tickets to candidates with criminal background, the SC has, lately given four orders; **10th March, 2014 (Trial within one year)**; **1st November, 2017 (Special 11 fast-track courts)**; **25th September, 2018 (Publication of criminal cases)**; **13th February, 2020 (Reasons for giving tickets to candidates with criminal cases)**. Unfortunately, none of these orders have been able to dissuade parties from giving tickets to candidates with criminal background rather than entry to ***clean, credible and honest candidates***.

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<sup>1</sup> [https://main.sci.gov.in/supremecourt/2020/24482/24482\\_2020\\_32\\_11\\_28409\\_Order\\_15-Jul-2021.pdf](https://main.sci.gov.in/supremecourt/2020/24482/24482_2020_32_11_28409_Order_15-Jul-2021.pdf)

<sup>2</sup> [https://main.sci.gov.in/supremecourt/2020/24482/24482\\_2020\\_32\\_1\\_28730\\_Order\\_20-Jul-2021.pdf](https://main.sci.gov.in/supremecourt/2020/24482/24482_2020_32_1_28730_Order_20-Jul-2021.pdf)

<sup>3</sup> [https://adrindia.org/sites/default/files/Supreme\\_Court\\_10-03-2014\\_daily\\_order\\_in\\_PFI\\_vs\\_UOI\\_0.pdf](https://adrindia.org/sites/default/files/Supreme_Court_10-03-2014_daily_order_in_PFI_vs_UOI_0.pdf)

<sup>4</sup> [https://adrindia.org/sites/default/files/Order\\_dated\\_01\\_-\\_Nov\\_-\\_2017\\_Ashwini\\_Upadhaya\\_case.pdf](https://adrindia.org/sites/default/files/Order_dated_01_-_Nov_-_2017_Ashwini_Upadhaya_case.pdf)

<sup>5</sup> [https://adrindia.org/sites/default/files/judgment\\_on\\_de-criminalization\\_25-Sep-2018.pdf](https://adrindia.org/sites/default/files/judgment_on_de-criminalization_25-Sep-2018.pdf)

<sup>6</sup> [https://adrindia.org/sites/default/files/Supreme\\_Court\\_judgement\\_dated\\_13th\\_Feb\\_2020\\_in\\_Contempt\\_petition\\_No\\_2192\\_of\\_2018.pdf](https://adrindia.org/sites/default/files/Supreme_Court_judgement_dated_13th_Feb_2020_in_Contempt_petition_No_2192_of_2018.pdf)

**EC's directions (in its letters dated 6th Mar'20 & 10th Oct'18) in compliance with SC orders dated 25th September 2018 and 13th February 2020 on Publication of Criminal Cases by Candidates and Political Parties including recording of reasons for selection**

**ECI's Letter dated 6th March 2020 in compliance with Supreme Court directions dated 13th February 2020 stated:**

- 1) It is mandatory for **political parties** at the Central and State election level to upload on their **website detailed information regarding candidates with pending criminal cases including the nature of offences, relevant particulars like whether charges have been framed, the concerned court, the case number etc.**
- 2) **Political parties** will also have to give reasons for such selection and why other individuals without criminal antecedents could not be selected as candidates.
- 3) 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.
- 4) 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 and Twitter.
- 5) 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. For ensuring periodic awareness of electors during the campaign, ECI has now prescribed following timeline for publicity of criminal antecedents during the period starting from the day following the last date of withdrawal and up to 48 hours before ending with the hour fixed for conclusion of poll,
  - Within first 4 days of withdrawal of nominations,
  - Between next 5th - 8th days.
  - From 9th day till the last day of campaign (the second day prior to date of poll) the day

6) 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.

7) If a **political party fails to submit such a 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

**ECI's Letter dated 10th October 2018 in compliance with Supreme Court directions dated 25th September 2018:**

**For Candidates:**

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

**For Political Parties:**

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

**Both Political Party and Candidates:**

1. It is mandatory for **political parties** and **candidates** with criminal antecedents to publish the declaration ***atleast on three different dates from the date following the last date of withdrawal of candidatures and up to two days before the date of poll.*** The matter should be published in font size of at least 12 and should be placed suitably in newspapers. In case of ***declaration in TV Channels, the same should be completed before a period of 48 hours ending with hours fixed for conclusion of poll.*** There is a format provided by ECI for such a declaration by the candidates and political parties.

2. In case of non-compliance of the direction by the ***candidate/political parties, the returning officers will give a written reminder*** to them and in the event of non-compliance till the end of the elections, ***the returning officer will report to the state's Chief Electoral Officer who will intimate ECI. ECI will take a final decision in the matter.*** The standard format for such a reminder to the candidates and political parties is also annexed in the letter.
3. ***All political parties; recognized parties and registered unrecognized parties shall submit a report to the CEO of the concerned state stating that they have fulfilled the requirements of the directions and enclosing herewith the paper cuttings containing the directions.*** This shall be done within 30 days of the completion of elections. Thereafter, within the next 15 days, the CEO should submit a report to the ECI confirming compliance and pointing out cases of defaulters.

#### **Format/Forms issued by ECI in pursuant to the aforementioned SC directions**

It is to be noted that **Form C7 and C8** should be ***duly signed by the office bearer of a political party with proper name and designation.*** Form C8 shall also bear ***seal of the concerned political party.***

Format/Form	Action to be taken by	Platform
C1	Candidates	To publish information regarding criminal background in Newspapers and TV
C2	Political Parties	To publish information regarding criminal background in Newspapers, TV and Political party's website
C7	Political Parties	To publish information regarding criminal background <b><i>along with reasons</i></b> in Newspapers, social media platforms, website of political parties
C8	Political Parties to the Election Commission of India	Compliance Report with respect to the SC judgment dated 13th Feb, 2020

## Summary and Highlights

**Association for Democratic Reforms (ADR)** has analysed **Format C7** of **118** out of **699** candidates, who declared criminal cases against themselves and are contesting in the **Delhi Assembly Election 2025** (excluding independent candidates).

*This data has been compiled from political parties' websites as well as social media handles that were functional before and during the period of the Delhi assembly elections. Most political parties published details as per form C7 on their social media handles such as Twitter. It must be noted that in some cases, parties may have published these details elsewhere and it may not have appeared in our records.*

Elections	Total Contesting Candidates	Number of Political Parties Analysed (whose candidates have declared criminal cases)	Number of Candidates Analysed with Declared Criminal Cases	No. of Candidates with Criminal Cases having a Published Format C7
Delhi Assembly 2025	699	22	118	94

22

*No. of Political Parties Analysed*

94

*No. of Candidates with Criminal Cases having a Published Format C7 (80%)*

24

*No. of Candidates with Criminal Cases whose Format C7 is not Published (20%)*

## **Political parties analysed:**

In the **Delhi Assembly Elections 2025**, out of **105** political parties which are contesting the election, the following **22** political parties have been analysed whose candidates have declared criminal cases against themselves, for this report.

S.No.	Party Name	S.No.	Party Name
1	Aam Aadmi Party	12	Rashtrawadi Janlok Party (Satya)
2	Indian National Congress	13	New India United Party
3	Bharatiya Janata Party	14	All India Majlis-E-Ittehadul Muslimeen
4	Peoples Party of India (Democratic)	15	Bhartiya Rashtriya Jansatta
5	Nationalist Congress Party	16	Abhinav Bharat Party
6	Bhartiya Rashtrawadi Party	17	Samata Party
7	Jai Maha Bharath Party	18	National Loktantrik Party
8	Aapki Apni Party (Peoples)	19	Blue India Party
9	Sarvodaya Prabhat Party	20	Bhartiya Insan Party
10	Azad Adhikar Sena	21	Peoples Green Party
11	Delhi Janta Party	22	Rashtravadi Loktantrik Party (India)

## **Criminal Background**

- **Candidates with Criminal Cases:** Out of **699** contesting candidates analysed, **118** candidates belonging to the aforementioned political parties have declared criminal cases against themselves.
- **Candidates with Serious Criminal Cases:** Out of **118** candidates with declared criminal cases, **71** have declared serious criminal cases against themselves.
- **Reasons furnished for nominating candidates with criminal antecedents:**
  - Out of **118** candidates with criminal cases, reasons have been furnished for **94 (80%)** candidates.
  - Out of **71** candidates with serious criminal cases, reasons have been furnished for **54 (76%)** candidates.
  - For **24 (20%)** candidates with criminal background, no reasons for their selection have been provided by political parties.

- **Reasons given for top 5 candidates** with highest number of total criminal cases pending:

S.No.	District	Constituency	Candidate	Party	No. of cases	Serious IPC/BNS Counts	Reasons for selection of candidate with criminal cases pending	Reasons as to why other individuals without criminal antecedents could not be selected
1	South-East	Okhla	Amanatullah Khan	AAP	19	15	Present MLA with good reputation among the masses & the cases are politically motivated.	Candidate was selected by consensus among the party workers in the area No other candidate with similar support.
2	New Delhi	New Delhi	Arvind Kejriwal	AAP	15	5	Ex Chief Minister and Party National Convener with good reputation among the masses & the cases are politically motivated.	Candidate was selected by consensus among the party workers in the area No other candidate with similar support.
3	North	Shakur Basti	Satyendar Jain	AAP	14	0	Present MLA & Ex Minister with good reputation among the masses & the cases are politically motivated.	Candidate was selected by consensus among the party workers in the area No other candidate with similar support.
4	North-East	Mustafabad	Mohd. Tahir Hussain	All India Majlis-E-Ittehadul Muslimeen	11	38	The selected candidate is very sincere & is very dedicated towards the party. The Candidate has a very good reputation in the society as he is doing social work at large scale in his area.	The cases registered against above named candidate, are relating to the political enmity as he has a long political history in his area so he is found more suitable candidate to be selected as an MLA.
5	North	Model Town	Akhilesh Pati Tripathi	AAP	10	11	Present MLA with good reputation among the masses & the cases are politically motivated.	Candidate was selected by consensus among the party workers in the area No other candidate with similar support.

**Table: Reasons given for top 5 candidates with highest number of total criminal cases pending**

- **Most commonly stated reasons by political parties for selection of candidates with criminal cases pending:**

Reasons for selection of candidate with criminal cases pending	Reasons as to why other individuals without criminal antecedents could not be selected
Present MLA with good reputation among the masses & the cases are politically motivated.	Candidate was selected by consensus among the party workers in the area No other candidate with similar support.
Candidate has been working among the people for more than a decade. He has good organisational skills and has been trying to improve the situation of the constituency through his efforts.	Candidate has been an accessible leader and enjoys good community support. He is committed to the ideals of the party and was found to be good choice amongst.
The candidate is a respectable member of the society and is very popular amongst the local population and enjoys support of the local electorate. There is only one FIR against him for raising his voice against irrational behaviour of a Govt. servant. Thus, the party deemed it fit to select him as a candidate. He is a popular youth leader of the party and hence enjoys considerable support of the electorate.	Keeping in view, the services being rendered by him in the constituency and considering the FIR against him is foisted as a result of political vendetta, the party has preferred him over any other candidate. He is a familiar and popular face among the voters.
The selected candidate is very sincere & is very dedicated towards the party. The Candidate has a very good reputation in the society as he is doing social work at large scale in his area.	The cases registered against above named candidate, are relating to the political enmity as he has a long political history in his area so he is found more suitable candidate to be selected as an MLA.

**Table: Most commonly stated reasons by political parties for selection of candidates with criminal cases pending**

- **Political parties that did not publish reasons for selection of candidates with criminal cases pending\***: Only 5 out of 22 analysed parties have made their candidates Format C7 publicly available.

Political Party	Total no. of contesting candidates with criminal cases pending	No. of Candidates with Format C7	Percentage of candidates with Format C7
AAP	44	42	95%
INC	29	29	100%
BJP	20	20	100%
All India Majlis-E-Ittehadul Muslimeen	2	2	100%
National Loktantrik Party	1	1	100%
Peoples Party of India (Democratic)	2	0	0%
NCP	2	0	0%
Bhartiya Rashtrawadi Party	1	0	0%

Political Party	Total no. of contesting candidates with criminal cases pending	No. of Candidates with Format C7	Percentage of candidates with Format C7
Jai Maha Bharath Party	2	0	0%
Aapki Apni Party (Peoples)	1	0	0%
Sarvodaya Prabhat Party	1	0	0%
Azad Adhikar Sena	1	0	0%
Delhi Janta Party	2	0	0%
Rashtrawadi Janlok Party (Satya)	1	0	0%
New India United Party	1	0	0%
Bhartiya Rashtriya Jansatta	1	0	0%
Abhinav Bharat Party	2	0	0%
Samata Party	1	0	0%
Blue India Party	1	0	0%
Bhartiya Insan Party	1	0	0%
Peoples Green Party	1	0	0%
Rashtravadi Loktantrik Party (India)	1	0	0%

**Table: Political parties that did not publish Format C7 for candidates with criminal cases pending**

\*At the time of making this report, format C7 data of some political parties was not available on the websites and social media handles. However, it may have been posted earlier by the parties and removed later.

• **Top 3 candidates with highest criminal cases whose reasons for selection have not been published:**

S.No.	District	Constituency	Candidate	Party	Total Cases
1	New Delhi	New Delhi	Mukesh Jain	Rashtrawadi Janlok Party (Satya)	4
2	North-West	Sultan Pur Majra	Jitender	Jai Maha Bharath Party	3
3	West	Madipur	Randhir Singh Tandir	Jai Maha Bharath Party	3

**Table: Top 3 candidates with highest criminal cases whose reasons for selection have not been published**

• **Other discrepancies in Format C7 of some candidates:**

Name of the Party	Remarks
AAP	<ul style="list-style-type: none"> <li>The Form C7 was uploaded on their party website but there is no signature of the office bearer. Refer Party Website Link Given Here: <a href="https://aamaadmiparty.org/wp-content/uploads/2025/01/33X47-PAGE-3_merged.pdf">https://aamaadmiparty.org/wp-content/uploads/2025/01/33X47-PAGE-3_merged.pdf</a></li> <li>For all candidates with cases against them the party has given the same word to word reason in the sections for reason as to why other individuals without criminal antecedents could not be selected as candidates.</li> </ul>
AIMIM	<p>For both candidates with cases against them the party has given the same word to word reason in the both sections for selection of candidate with criminal background and reason as to why other individuals without criminal antecedents could not be selected as candidates.</p> <p>Refer Party Twitter Link Given Here: <a href="https://x.com/aimim_national/status/1879539385940717713/photo/1">https://x.com/aimim_national/status/1879539385940717713/photo/1</a>  <a href="https://x.com/aimim_national/status/1879539228037755025/photo/1">https://x.com/aimim_national/status/1879539228037755025/photo/1</a></p>
<ul style="list-style-type: none"> <li>A portion of <b>Format C7</b> for <b>Sunil Kumar (National Loktantrik Party)</b> is not available. Hence, the reasons for selection of the candidate cannot be ascertained.</li> </ul>	

S.No.	District	Constituency	Candidate	Party	Total Criminal Cases Declared in the Affidavit (Form 26)	Total Criminal Cases Declared in the Format C7
1	North	Shakur Basti	Satyendar Jain	AAP	14	4
2	East	Kondli	Kuldeep Kumar	AAP	7	6
3	East	Gandhi Nagar	Naveen Chaudhary (Deepu)	AAP	4	3
4	South-East	Sangam Vihar	Dinesh Mohaniya	AAP	4	2
5	West	Tilak Nagar	Jarnail Singh	AAP	4	2
6	South-West	Bijwasan	Surender Bhardwaj	AAP	3	2
7	Central	Burari	Sanjeev Jha	AAP	2	1

**Table: Candidates who have declared different number of criminal cases in the Affidavit (form 26) and Format C-7**

### Financial Background

- **Crorepati Candidates:** Out of the **118** candidates from parties with declared criminal cases, **84 (71%)** are crorepatis.
- **High Assets Declared:** Highest declared total assets of **top 3 candidates**, along with details of their criminal cases pending:

S. No.	District	Constituency	Candidate	Party	Cases Total	Serious IPC/BNS Counts	Total Assets (Rs.)
1	West	Rajouri Garden	Manjinder Singh Sirsa	BJP	5	0	2,48,85,52,444 248 Crore+
2	East	Krishna Nagar	Gurcharan Singh (Raju)	INC	1	0	1,30,90,52,000 130 Crore+
3	New Delhi	New Delhi	Parvesh Sahib Singh	BJP	1	0	1,15,63,83,180 115 Crore+

**Table: Top 3 candidates having highest declared assets with criminal cases pending**

## Observations by ADR

### I. General:

Functioning of our political parties can only be regulated by adopting stringent measures which are enforced by concerned agencies like the ECI and the law and order machinery. Mere warnings issued to political parties will not help the cause. In 2015, the Supreme Court had left it to the wisdom of the Prime Minister and Chief Ministers of the states to not appoint ministers in their cabinet with criminal backgrounds. However, since 2015, the crime rate in the legislative offices has only escalated further. On 30th August, 2020 the Madras High Court had not only asked the Central Government to ***“enact a law to prohibit candidates with criminal background contesting the elections to the Parliament as well as State legislatures”*** but had also emphasized that ***“the Central Government has to come out with a comprehensive legislation to prohibit persons with criminal background from contesting elections to Parliament, State Legislatures and local bodies”***.

The stipulation that more people who are ***honest, fair, credible, capable and men of character and integrity***, should contest elections and be the key policy makers, holds no ground in the Indian Political System. Over the years, political establishments have completely disregarded or intentionally sidelined the reforms suggested by various committees, citizens and civil societies. It is on record that various recommendations given by several committees dating as far back as 1999, are lying un actioned.

In the Format C7, under the column where ***“Reasons as to why other individuals without criminal antecedents could not be selected”***, it is noticed that in most cases, instead of giving cogent answers to the question, justification is given as to why the candidate in question has been selected.

How casually political parties take the SC and ECI directions is evident from the list of C7 format available on the websites of BJP, INC, AAP, AIMIM and others for the Delhi state assembly elections 2025. While giving reasons for fielding candidates with criminal cases, the exact same reasons have been replicated for all candidates.

## **II. Blatant contempt of the Supreme Court directions:**

ADR's analysis of publication of criminal antecedents by political parties reveals major shortcomings in the implementation of the SC judgement. Several political parties, regardless of their current political outreach and popularity, ***did not have a functional website*** to publish details of candidates with criminal background along with reasons, or they were not uploaded on the websites and on social media platforms which made it difficult to access these forms. There were yet others that had a separate section dedicated for election information, but they either ***failed to upload necessary documents or had dysfunctional website tabs***. Notably, even among the few political parties that published Format C7's within the stipulated time period, there were some grave problems which emerged upon analysis of the information provided through these affidavits. These included a) ***justifying fielding of tainted candidates with unfounded and baseless reasons like chances of winning, popularity of the person, does good social work, offences not being grave in nature, cases are politically motivated***, b) ***repetition of reasons*** outlined through forms, not just for candidates within a single political party, but also for those contesting on behalf of other parties; and c) ***publication of Format C2 (information with particulars on criminal cases pending against candidates) but not Format C7 (information regarding pending criminal cases along with reasons)***.

Other discrepancies include ***omission of crucial information*** on affidavits, such as name of candidate and reason for selection (which is the primary purpose of Format C7), as well as ***submission of data in incorrect (letter) format***. This is especially of concern in light of the total number of pending cases against the candidates in question, and their categorisation under 'serious criminal cases'. ***It is also important to note that for all the State Assembly elections, reasons for inclusion of independent candidates with criminal background has not been provided on any public platform.***

## **III. Strong muscle and money nexus cannot be reprimanded by mere pious hopes:**

Criminal elements have been playing a major role in the electoral process in India both as candidates for elections and as party workers. The nexus between politicians, bureaucrats, and criminal elements in our society has been on the rise, the adverse effects of which are increasingly being felt on various aspects of social life in India. ***Such a strong criminal political bureaucratic nexus in our electoral and political process has to be confronted with resolve and determination by ECI and law enforcement agencies.***

***The present law i.e. section 8 of the Representation of People's Act, 1951 and the repeated orders issued by courts have not been able to deter politicians with criminal backgrounds from occupying high offices as MPs, MLAs and Ministers.*** Conviction rate under our judicial system has been falling over the years. More importantly, the time taken for trials is unduly long. In addition, politicians do not even diligently or properly furnish each

and every information as required under Form 26 or without constant reminders and warnings by the Election Commission of India. The result is that the law breakers have become law makers.

#### **IV. Absence of Law, Rules, and Regulations:**

There is no well-defined process in the selection of candidates by the political parties. There is no law for regulating the functioning of political parties. There is no way to penalise the office bearers of the political parties in case of any conflict or contravention with rules or laws. Political parties have blatantly refused to come under RTI law. Tickets are given to the candidates for contesting elections on the sole basis of winnability factor. Historically, it has been observed that muscle power and money power make a winning combination. Candidates with criminal background quietly make their foray into the Lok Sabha and State Assembly elections as political parties do not hesitate in giving tickets to such candidates.

#### **V. How and when will the contempt action be taken?**

In view of the Supreme Court's orders dated 25th September, 2018 and 13th February, 2020 and as per the ECI's letter dated 6th March, ***"if a political party fails to submit such compliances 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"***. However, there is no information available about any such contempt action having been taken against these political parties. In reality, citizens are not sure whether the ECI has reported to the Supreme Court the non-compliance of its directions by some political parties in the recently held elections. It is also not clear if the ECI even keeps a tab over the submission and maintenance of these forms.

#### **VI. Steps taken by ADR:**

- a) ADR had pursued this deliberate act of contempt by political parties of the directions dated 13th February, 2020 and 25th September, 2018 before the Hon'ble Supreme Court wherein the Hon'ble court in its directions dated 17th March 2023 had directed ADR to, ***"pursue its remedies before the Election Commission of India"***.
- b) On **19-06-2023** ADR had filed an application before the Election Commission of India against political parties regarding the wilful disobedience and violation of these mandatory directions highlighting the fact that in spite of the repeated requests and reminders given by the Hon'ble Supreme Court and other main stakeholders including the Election Commission of India, political parties had completely failed to follow the aforementioned directions during the Assembly Elections held in the years 2023, 2022 and 2021.

- c) The application filed by ADR had sought strict action to be initiated against the defaulting political parties which **had contested 2023 Assembly Elections held in Tripura, Meghalaya, Nagaland, Karnataka, Rajasthan, Madhya Pradesh, Chhattisgarh and Telangana; 2022 Assembly elections held in Gujarat, Himachal Pradesh, Uttar Pradesh, Uttarakhand, Goa, Manipur and Punjab and 2021 Assembly Elections held in the States of West Bengal, Tamil Nadu, Kerala, Assam and UT of Puducherry.**
- d) On **21-11-2023**, a **reminder letter** was sent by ADR to the Commission to inquire about the status of the action taken in the light of application dated 19-06-2023. The letter was sent to the ECI during the 2023 State Assembly elections held in the States of **Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and Telangana.** Through its letter, ADR had requested the Election Commission to follow directions of the Supreme Court in its letter and spirit by taking immediate and concrete steps so as to ensure that political parties contesting elections not only publish correct and useful details about candidates selected by them but in doing so parties are also forced to select credible and honest candidates due to necessary public glare because of the availability as well as accessibility of such crucial background information about criminal antecedents amongst voters. However, **no response regarding any action taken by the Commission nor any acknowledgment of the application filed was received.**
- e) On **08-01-2024** ADR along with Gujarat Election Watch had written to the Election Commission highlighting the discrepancies found in C7 and C8 forms during the Gujarat State Assembly Elections, 2022. The letter highlighted the serious discrepancies found while publishing Form C7 and C8 by political parties and candidates. To name a few **publishing of Form C7 in English language only and not in the vernacular language depriving lakhs of voters from crucial background information about the candidates, unfounded reasons while fielding candidates with criminal background, smaller font size, lack of wide publicity as stipulated in the judgment, disparity and ambiguity in publishing of Form C7, no mechanism of cross verification of Form C7 and non-compliance of the Supreme Court judgment.** In spite of the gravity of the situation and in spite of highlighting the serious glitches found while furnishing of crucial criminal details against candidates contesting **Gujarat State Assembly Elections**, no response or acknowledgement was received by the ECI.

### **Recommendations by ADR**

There is no dearth of solutions to curb the ever-growing problem of criminality in politics. ***What is required is the courage and will to do the same. Lawmakers will not frame laws that ban the unimpeded and unchecked entry of politicians with criminal cases. Constitutional bodies and institutions will continue to take refuge under reasons like 'lack of power'.*** In fact, on 20th July, 2021 while hearing the contempt petition against publication of reasons for selection of candidates with criminal cases by political parties, the Bench headed by Justice R.F Nariman and Justice B.R Gavai had added, ***"We are certain that the legislative branch will not take this forward, not only in the foreseeable future, but at any time in the future"*** Given the current situation, where all political parties stand united and determined to stall any attempts to bring accountability, transparency, and fairness in our electoral process, it becomes imperative to remind the key duty holders of their role duties in preserving, protecting, and defending the Constitution. The only way to remedy the existing problem of criminalization is to immediately act upon the plausible solutions offered by the judiciary, various committees, civil society, and citizens.

Until and unless these trends are not reined in, our current electoral and political situation is bound to deteriorate further. It is after all the electorate, who has to suffer on account of criminalization and often can do little but helplessly participate in the election of the mighty and moneyed criminal elements. ADR, therefore, proposes following recommendations that need to be acted upon immediately ***without further delay and damage to our Participatory democracy and Rule of Law.***

#### **A) Case specific recommendations:**

- a. **Show cause notice:** The Election Commission should take note of the current situation and reprimand political parties and politicians for failure to abide by the lawful directions of the Commission, complete lack of will, reprehensible predilection and absence of required laws. ***A "show cause notice"*** should be sent to those political parties who failed to follow the mandatory directions. In addition, the Commission should also immediately take a strict contempt action against political parties, their office bearers and candidates for blatantly bypassing its 25th September 2018 and 13th February 2020 orders.
- b. **De-registration of Political parties:** The Commission should deregister those political parties who are found guilty of such violation by invoking its powers under Article 324 of the Constitution read with Section 29(A)(5) of the RP Act, 1951.
- c. **De-recognition of political parties:** Failure to abide by the lawful directions of the Election Commission and the Hon'ble Supreme Court should be treated as a serious breach under Paragraph 16A of the Election Symbols (Reservation and Allotment) Order, 1968 and therefore, the Election

Commission of India should invoke its powers under Paragraph 16A read with Article 324 of the Constitution and suspend or withdraw recognition of a recognized political party for its incessant failure and disobedience of the SC directions.

- d. **Officer bearers of a Political Party to file annual information on criminal antecedents:** Under the ‘*Guidelines and Application Format for Registration of political parties’ under Section 29A of the Representation of the People Act, 1951 and ‘Registration of Political Parties (Furnishing of Additional Particulars) Order, 1992’* Election Commission of India should not only ask for the information regarding criminal antecedents of the Office Bearers such as President, Secretary, General Secretary, Chairperson, Convenor, Treasurer etc only at the time of registration but also ask each political party to annually file information on criminal antecedents of their Office Bearers. This information should also be made available to the public ***including NIL records*** and should be displayed outside each polling booth during elections.
- e. **List of defaulting political parties to be prepared and shared by ECI:** Election Commission of India is expected to implement the 25th September, 2018 and 13th February, 2020 SC orders in its letter and spirit. The Commission should immediately submit a list of such defaulting political parties to the Supreme Court after each election. It should also list out names of such tainted candidates selected by the political parties along with such reasons for such selection. These lists should be religiously prepared and submitted to the Supreme Court after every election and the same should be uploaded on ECI’s website for public inspection.
- f. **Reporting of such contempt to the Supreme Court of India:** The Election Commission should immediately report such default to the Supreme Court during each election. In addition, ECI must ensure that the Supreme Court’s directions are being truly implemented by political parties by taking concrete steps in the light of reasons given by political parties in Form C7 and C8, diligent publication of reasons in newspapers, T.V channels, party website etc and strict and constant reminders by ROs to the defaulters.
- g. **Contempt action against its orders by Supreme Court:** The Supreme Court of India being the ultimate custodian of “Justice and Rule of Law” should take note of the current situation and ***reprimand political parties and politicians for such contempt, complete lack of will, reprehensible predilection and absence of required laws.*** In addition, the Supreme Court should also ***immediately take a strict contempt action against political parties, their office bearers and candidates for blatantly bypassing its 25th September 2018 and 13th February 2020 orders.***
- h. **Parties must face consequences for breach:** Political Parties must realize that the aforementioned ***SC directions are mandatory and therefore the compliance is not optional.*** Parties should be held accountable for brazenly defying the Supreme Court’s order dated 25th September, 2018 and 13th February 2020. ***There should be a heavy financial penalty levied on them for making insufficient disclosures,***

*invalid and common reasons, selection of candidates based on winnability, failing to submit the Compliance Report on time etc. Officer in-charge of a political party pertaining to submission of a compliance report should also be held accountable for such a breach.*

- i. **Creation of separate cell to monitor compliance:** ECI should constitute a **separate cell for monitoring and audit of C7 and C8 forms** submitted by parties during elections in order to minutely check/verify/cross verify the compliance of these forms and appropriate actions should be taken immediately to ensure such compliance. This should also include strict and constant reminders by ROs to the defaulters. **Para 73 of the Supreme Court judgment in Contempt Petition (C) No. 656 of 2020 titled Brajesh Singh Vs. Sunil Arora & Ors** already requires the Commission to take requisite action against defaulting parties as contemplated under the judgment including creation of a separate cell to monitor the required compliances and to promptly apprise the Hon'ble Supreme Court of such non-compliance by any political party.
- j. **Clarification guidelines:** ECI should issue modified guidelines specifically clarifying the ambiguities regarding format, font size, language etc to be used in the newspapers including the vernacular newspapers in the states. **These guidelines need to mention that the format C7 should be published in the same format as given by ECI in its directions dated 6th March, 2020 & 10th October, 2018 and political parties cannot change it or club it together based on their preference.** Uniform format will make it easier for the voter to identify C7 forms in any newspaper.
- k. **A dedicated mobile application:** The Supreme Court had also directed ECI directed to create a **dedicated mobile application** containing information published by candidates regarding their criminal antecedents, **so that at one stroke, each voter gets such information on his/her mobile phone.**
- l. **Extensive awareness campaign:** The Supreme Court had also directed ECI is directed to carry out an extensive awareness campaign to make every voter aware about his right to know and the availability of information regarding criminal antecedents of all contesting candidates. This shall be done across various platforms, including social media, websites, TV ads, prime time debates, pamphlets, etc. In its judgment, the Supreme Court had ordered ECI to create a fund for this purpose within a period of 4 weeks into which fines for contempt of Court may be directed to be paid.

## **B) Other key recommendations on decriminalisation:**

- I. **Criteria for selection of candidates:** There should be a strict criterion for selection of candidates by political parties. As per the **Supreme Court judgment** dated **13th February 2020**, **political parties** are already required to give **reasons for selection** of candidates and **why other individuals without criminal antecedents could not be selected as candidates**. As per the judgment 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.
- II. **Disqualification on charges framed:** Problem of criminalization can be tackled if such tainted candidates are outrightly banned from entering the electoral process based on both stage and degree of crime. This can be achieved by **disqualifying candidates from contesting elections to the public offices against whom ‘charges have been framed by court’ for having committed serious criminal offences punishable by imprisonment of at least 5 years, and the case is filed at least 6 months prior to the election in question**.
- III. **Permanent disqualification for heinous offences:** It is reprehensible to have a Lawmakers charged/convicted of heinous crimes making laws for citizens and policies for the nation. **There should be a permanent disqualification of candidates convicted for heinous crimes like murder, rape, smuggling, dacoity, kidnapping, robbery etc.**
- IV. **Prior announcement of candidates contesting elections:** **List of candidates** contesting elections should be **announced at least 3 months prior to elections** and they should be required **to submit affidavits stating specific reasons for changing/joining a particular party and approximate amount to be spent by them in the next elections and of the source thereof**. All this information should be placed in the public domain.
- V. **False affidavit should lead to immediate disqualification:** Furnishing of false information in the affidavits by candidates should not be taken lightly by the ECI. **It is after all, the first and foremost step in the direction of ‘free and fair elections.’** Section 125A of the RP Act, 1951 has not been able to deter candidates from furnishing wrong/incorrect information as it only leads to a six months imprisonment or fine or both, and therefore doesn’t attract disqualification. **There should be an immediate disqualification of candidates who furnish misinformation, no information false, information in the election affidavit.**
- VI. **More power to NOTA:** The Supreme Court judgment dated 23rd September, 2013 on provision of NOTA buttons on the EVMs needs to be implemented in its letter and spirit by ensuring a) **if NOTA gets more votes than any of the candidates, none of the candidates should be**



*declared elected, and a fresh election should be held; b) in the fresh election, none of the candidates in the earlier election, in which NOTA got the highest number of votes, should be allowed to contest.*

- VII. **Fast tracking of cases for MLAs/MPs:** All pending cases against MPs and MLAs should be fast tracked and brought to conclusion ***within a period of one year as mandated by the Supreme Court orders dated 10th March 2014 and 1st November 2017.*** This will also help in ensuring that the arbitrary and unbridled power given under Section 321 of the Cr.P.C is not misused by the governments of the day by ordering withdrawal of cases pending against powerful politicians, ministers and other rich and powerful people.
- VIII. **Declare Political parties as Public Authorities:** It is the political parties that form the government, man the Parliament, and run the governance of the country. Where bringing political parties under the ambit of Right to Information Act, 2005 will usher transparency and accountability in the functioning of political parties and party leaders at one hand, on the other, it will also give a chance to the citizens to play their part in a democracy by acting as a watchdog. ***Bringing parties under RTI law will not only empower the citizens to question, audit, review, examine, and assess information like inner party elections, criteria for ticket distribution but it will also allow people to seek definite and direct answers from the office bearers for the kind of candidates being fielded by our political parties. Therefore, it is high time that the Supreme Court of India takes note of this current predicament and upholds and implements the 3rd June 2013 CIC order by bringing the parties under the ambit of RTI Act.***
- IX. **A comprehensive law to regulate political parties' affairs:** Political parties are the ultimate repository and guardian of our whole constitutional, democratic, social-economic set up, but ***we don't have a single comprehensive law entirely dealing with political parties. In absence of a comprehensive law, citizens cannot question, appraise and audit the functioning of political class and politicians.*** Therefore, there is a dire need for a comprehensive legislation ***regulating the functioning of political parties, recognition of their party constitution, election at various levels of party organs, conditions for registration and de-registration, compulsory maintenance of accounts, women representation at organisational positions,*** as recommended in the '170th Law Commission Report, Part III, Chapter I' and Chapter 8 of the NCRW report.
- X. **Introduce provisions for inner-party democracy within political parties:** In spite of being one of the largest democracies in the world, our political parties which run this democracy are painfully undemocratic in their functioning. Political parties have miserably failed in their 'Code of conduct' and self-initiated reforms for themselves. Therefore, mandatory provisions should be made to ***introduce inner-party democracy, transparent decision-making, ticket distribution, elections of office bearers, financial transparency and stronger organisational discipline***

within the political parties. This should include ***mandatory secret ballot voting for all elections for all inner party posts and selection of candidates, as suggested by the 170th Law Commission Report.***

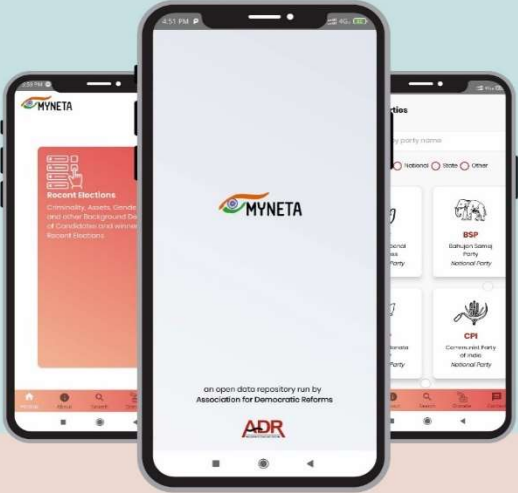
- XI. ***Annual Report by MPs and MLAs:*** Elected MPs and MLAs should be required to submit an '***Annual Report***' to their constituency giving ***details of their accomplishments for previous year and the plan for the next year.*** This report should be made available at the Lok Sabha/Rajya Sabha/ State Assembly website and on the Election Commission's website.
- XII. ***First-past-the-post, "50%+1 of the registered votes cast":*** As per the recommendations given by various committees, Law Commission and NCRWC, '***no candidate should be declared elected unless he or she secures more than 50% of the votes cast***'. In the case when no candidate gets the required number of votes, ***there should be a runoff between the top two candidates getting maximum votes.*** It is worth noting that 50%+1 of the votes cast is an easier requirement for being declared elected, a more stringent requirement, and the ideal to ensure appropriate and proper representation.

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