

Date: 28-11-2023

To,

Shri Rajiv Kumar

Chief Election Commissioner
Election Commission of India (ECI)

Shri Anup Chandra Pandey

Election Commissioner
Election Commission of India (ECI)

Shri Arun Goel

Election Commissioner
Election Commission of India (ECI)

Matter related to the publication of criminal cases against candidates selected by political parties along with reasons for such selection in pursuance to Supreme Court judgments dated 25th September 2018 and 13th February 2020.

Subject: Reminder letter requesting immediate action against political parties and their office bearers for wilful disobedience and blatant disregard of the lawful directions of the Election Commission of India issued in pursuance to the Supreme Court judgments in (2019) 3 SCC 224 and 2014 (3) SCALE 563 during the Assembly Elections held in the years 2023, 2022 and 2021.

Dear Sir(s),

- 1) On 19-06-2023 'Association for Democratic Reforms' (ADR) had filed an application before the Election Commission of India against political parties regarding the wilful disobedience and violation of the mandatory directions of this Commission issued in pursuance of Hon'ble Supreme Court's directions dated 25th September, 2018 and 13th February, 2020 passed in **Rambabu Singh thakur Vs. Sunil Arora and others, (2019) 3 SCC224** wherein the 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.

A true copy of the **ADR application dated 19-06-023** is annexed herewith and marked as **ANNEXURE A/1**.

- 2) 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 and Karnataka, 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.**
- 3) The application stated 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. **Since then, no response regarding any action taken by the Commission nor any acknowledgment of the application filed by us has been received.**
- 4) We would again like to place on record that the Hon'ble Supreme Court had directed ADR to pursue this deliberate act of contempt by political parties of the directions dated 13th February, 2020 and 25th September, 2018 before this Commission owing to which application dated 19th June, 2023 was filed. The Hon'ble court's directions dated 17th March 2023 stated, **"pursue its remedies before the Election Commission of India"**.

A true copy of the **Supreme Court order dated 17th March, 2023** is annexed herewith and marked as **ANNEXURE A/3**

- 5) Attention is also invited to 'Para 73' of the Hon'ble Supreme Court's judgment dated 10.08.2021 in ***Contempt Petition (C) No. 656 of 2020 titled Brajesh Singh Vs. Sunil Arora & Ors.*** which not only 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 **but the Supreme Court through its judgment had also directed the Election Commission to make sure that these guidelines are mandatorily followed by the parties by taking necessary steps. The judgment also required 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.**

The relevant para of the judgment is reproduced below;

"73. In furtherance of the directions issued by the Constitution Bench in Public Interest Foundation (supra) and our Order dated 13.02.2020, in order to make the right of information

of a voter more effective and meaningful, we find it necessary to issue the following further directions:

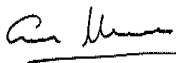
- I. *Political parties are to publish information regarding criminal antecedents of candidates on the homepage of their websites, thus making it easier for the voter to get to the information that has to be supplied. It will also become necessary now to have on the homepage a caption which states "candidates with criminal antecedents";*
- II. *The ECI is 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;*
- III. *The 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. A fund must be created for this purpose within a period of 4 weeks into which fines for contempt of Court may be directed to be paid;*
- IV. *For the aforesaid purposes, the ECI is also directed to create a separate cell which will also monitor the required compliances so that this Court can be apprised promptly of non-compliance by any political party of the directions contained in this Court's Orders, as fleshed out by the ECL in instructions, letters and circulars issued in this behalf;*
- V. *We clarify that the direction in paragraph 4.4 of our Order dated 13.02.2020 be modified and it is clarified that the details which are required to be published, shall be published within 48 hours of the selection of the candidate and not prior to two weeks before the first date of filing of nominations; and*
- VI. *We reiterate that if such a political party fails to submit such compliance report with the ECL the ECI shall bring such non-compliance by the political party to the notice of this Court as being in contempt of this Court's Orders/directions, which shall in future be viewed very seriously. "*

- 6) At this juncture we would also like to bring to the notice of this Commission that it is expected that political parties while fielding candidates during the ongoing Assembly elections in *the States of Chhattisgarh, Madhya Pradesh, Mizoram, Rajasthan and Telangana* are following their same old practice of choosing candidates with muscle and money. There is high possibility that the political parties during the November, 2023 Assembly elections will completely disregard and violate the directions dated 25th September, 2018 and 13th February,

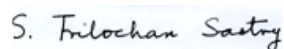
2020 by not only giving tickets to the candidates with criminal background but also without paying any heed towards giving concrete reasons for choosing such tainted candidates instead of honest, credible and worthy candidates.

- 7) It is therefore expected that the Election Commission follows these 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. **As a matter of fact, this “action as contemplated under law and as per Para 73 of the Hon’ble Court’s order dated 10.08.2021” should have been taken immediately against the defaulting political parties which had contested Assembly Elections in the years 2023,2022 and 2021.**
- 8) We hope that Election Commission, as a constitutional body and a competent authority to conduct free and fair elections to the Parliament and to the Legislature of every State Commission will take cognizance of the present state by taking firm and swift action and uphold the faith of the public in the free and fair elections and the rule of law. **It is urged that “action as contemplated under law and as per Para 73” be taken without any further delay.**
- 9) Through this letter we would also like to humbly request the Commission to inform us about the steps/action taken by the Commission or intending to take in the light of the facts placed against the defaulting political parties that had contested the Assembly Elections held in the years 2023, 2022 and 2021 vide application dated 19-06-2023.
- 10) It will be appreciated if the receipt of this letter is acknowledged.

Yours sincerely,



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