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Critical analysis on electoral offences in India

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ABSTRACT:

Politically, freedom and equality are fundamental elements that should be guaranteed in the idea of free and reasonable elections. Free and reasonable elections imply that nobody is impacted by the activity of their privileges. They can settle on their own choices, be liberated from the ties of others, and settle on close to home decisions without a vindictive plan or excessive impact from others. Elections are crucial for the smooth running of the state and should be reasonable. At the point when an individual votes, the person in question isn't affected or constrained by party discipline, religion, sex, language, standing, convictions, and so on contamination. In this manner, free and reasonable elections are the encapsulation of a popularity based country.

KEYWORDS:

Election, Electoral Commission, Criminal Code of India

INTRODUCTION:

Race is considered a majority voting cycle and is essential to the foundation and continuity of the voice system. India has a constitution that guarantees a republic with a majority of relatives. India's constitution includes an electoral commission, an autonomous and sacred office to set a majority vote/postal code and make free and wise decisions. Free and rational decision-making is a fundamental part of the Indian voting system. 4,444 corrupt practices and violations related to political decisions impede the free exercise of the right to vote and result in payouts and undue consequences. IXA, section 171 of the Covenant on Violations of Political Decisions under the Criminal Code of India. Decisions in India are just vacations and are very exciting for people. Tackle is known as the epitome of voice racing. In any voting-based system, this is the only normal right to vote/elect a specific person chosen from among various candidates to perform a specific task. The 4,444 corrupt practices and violations related to political race impede the free exercise

of the right to vote and have beneficial and unnecessary consequences.

This part was introduced by section 2 of the Indian Electoral Crimes and Investigations Act of 1920. Record privileges such as fines for violations such as payment, identity, unwanted exposure, and threats of fake racial reputation.

ANALYSIS:

Election crimes by the IPC are listed under the heading " Of Offences Relating to Elections" in Chapter IXA. This chapter was coded in 1920, more than 90 years ago, by the Indian Election Crimes and Inquiries Act of 1920, which introduced the concept of elections in a limited way in some parliaments under the Government of India Act of 1919. Added. Elections (see 171B), excessive impact on elections (sec 171C), personalization in elections (sec 171D), false statements related to elections (sec 171G), illegal payments related to elections (sec 171H) and holding an election account.

The electoral offences under the Representation of People's Act, 1951 are:

1. Promoting enmity between classes in connection with election (sec. 125)
2. Filing false affidavits (sec. 125A)
3. Holding of public meetings during a period of 48 hours ending with an hour fixed for conclusion of poll (sec. 126)
4. Restriction on publication and dissemination of result of exit polls (sec. 126A)
5. Offences by companies (sec. 126B)
6. Disturbances at election meetings (sec. 127)
7. Printing of pamphlets, posters without mentioning the name of publisher (sec. 127A)
8. Violation of secrecy of voting (sec. 128)
9. Officers or others trying to influence the voters (sec. 129)
10. Canvassing in or near the polling stations (sec. 130)
11. Disorderly conduct in or near polling stations (sec.131)
12. Misconduct at the polling stations (sec. 132)

13. Failure to observe procedure for voting (sec. 132A)
14. Illegal hiring or procuring of conveyance at elections (sec. 133)
15. Breaches of official duty in connection with elections (sec. 134)
16. Misuse of Government servants (sec. 134A)
17. Going armed to or near the polling stations (sec. 134B)
18. Removal of ballot papers etc. from polling stations (sec. 135)
19. Booth capturing (sec. 135A)
20. Non- grant of paid holiday to employees on the employees on the day of poll (sec. 135B)
21. Sale, distribution etc. of liquor on polling day (sec. 135C)
22. Fraudulently tampering with nomination papers, ballot boxes, ballot papers, election records, unauthorizedly supplying ballot papers etc. (sec. 136)

Any conviction of an offence under s. 125, s. 135, s. 135A and s. 136(2)(a) attracts disqualification for membership of Parliament and state legislatures for a minimum period of 6 years from the date of conviction. Further, any conviction for an electoral offence committed under s. 125, s. 135 and s. 136(2)(a) also imposes disqualification for voting for a period of 6 years.

Offences relating to Elections in Indian Penal Code

Bribery

Under Section 171B, it is considered bribery if you satisfy someone in order to induce that person to exercise their right to vote or as a reward after exercising their right to vote. Select immediately after awakening. A person who accepts a bribe and otherwise encourages him to exercise his right to vote is also a bribery offense.

This section states that a person gives pleasure when or when he intends to provide or intend to provide satisfaction. A person who receives or intends to receive compensation in exchange for changing a prescribed course and acting according to the will of the person giving such satisfaction shall be deemed to have received it.

A person who commits a bribery offense may face up to one year in prison, a fine, or both under Section 171E. However, a person who receives a bribe as a result of treatment only has to pay a fine. “Treatment” means the provision or acceptance of food, drink, entertainment or offering for gratification.

Undue influence

Section 123(2) of the RC Act and Sections 171C/171F of the IPC deal with improperly influencing elections and making them corrupt practices and crimes. Anyone who directly or indirectly interferes with, or attempts to interfere with, the free exercise of the right to vote, commits an offense of undue influence and may face up to one year in prison or a fine or both under the provisions of the IPC. Violations are punishable under Section 171 F of the Act. Paragraph (1) of this section makes it clear that any person who voluntarily interferes with, or attempts to interfere on a voluntary basis, in the free exercise of the right to vote, commits an offense in the form of improperly influencing an election. Actual tampering and tampering attempts were considered at face value.

Interference or attempted interference must relate to the free exercise of the right to vote. “The right to vote” has the same meaning as Section 171A of the Code. Subsection (2) explains the meaning of the expression “free exercise of the right to vote”, including in certain respects, but at the same time without prejudice to the generality of the provisions of subsection (1). Subsection (a) states that without prejudice to the generality of subsection (1), any harm of any kind that threatens a candidate or voter, or threatens a person in which the candidate or voter has an interest, shall be regarded as interference.

The free exercise of the right to vote by such candidates or voters within the meaning of subsection (1) as the case may be. Subsection (b) means a person who, without prejudice to the generality of subsection (1), entices a candidate or voter, or attempts to persuade a candidate or voter to believe that he or she will be or will be related to him. To receive divine dissatisfaction or spiritual

condemnation shall, within the meaning of subsection (1), be deemed to impede the free exercise of the right to vote by such candidate or voter. Subsection (3) means the simple exercise of a legal right without the intention of interfering with a public policy declaration, public action commitment, or suffrage, except as specifically contemplated as interference, within the meaning of this section. In the case of Gangadhar Mahapatra, the electoral candidate introduced himself to the voters as Lord Vishnu's representative, Chalanti Vishnu, and encouraged anyone who did not support him to commit a crime against Hinduism and blasphemy against God. He was convicted under Section 171F for the offenses identified in this section.

Personating at an election

Section 171D states that anyone who votes twice or attempts to vote in a dishonest way is a violation of status. Everyone must vote. For example, a person who applies for a ballot under a pseudonym, dead or alive or under a pseudonym, or who voted in such an election wishes to vote again is personalization. A person who instigates or attempts to use another person to obtain a ballot is also a personalization violation. It is important to note that under the laws in force at the time, no one authorized to vote as custodian of the voters could commit this crime. Electors are liable under Section 171F to imprisonment of up to one year, a fine, or both.

False statement in connection with an election

Section 171G makes it clear that anyone who makes or makes a statement disguises it as a statement of fact without knowing it to be false or believing it to be true in an attempt to disparage the character or conduct of a candidate. Election results are punishable by a fine.

Illegal payments in connection with elections

Receiving / Approving Costs to Promote Campaigns, Including Public Meetings, Press Conferences, Advertising, Distribution, or Publications under Section 171 (h), without the general or specific written authority of the person responsible for. The fines are: 500. However, if the candidate's attorney's authority can be obtained without permission within 10 days from the date

of these costs, it is subject to people acting with the consent of the applicant. Therefore, this provision does not apply.

Failure to keep election accounts

A person responsible for keeping records of expenses incurred in connection with an election pursuant to section 171(i) of the Act under any law or regulation in force at the time. By law, non-compliance with this requirement will result in a fine, up to a maximum of Rs. 500.

Distinction between corrupt practices and electoral offences

Gadakh Yashwantrao Kangaroo v. Supreme Court E.V. Under the pseudonym Balasaheb Vihe Patil, he ruled that certain rules were enacted into law to ensure that elections were conducted freely and fairly and that elections of high moral and ethical value were to be won. Certain acts or omissions that violate election ethics, undermine the integrity of elections, have a corrupt effect, or negatively affect election results are prohibited. Some of these 4,444 acts are referred to as "corruption" and others as "violations of electoral law." Corruption practices are set out in Section 123 of the Civil Rights Act. Meanwhile, violations of the electoral law are stipulated in both IPC Article (Chapter 9A) and Polish Law Article (Chapter 3, VII). Crimes related to elections under the IPC are criminal in nature and apply to all elections conducted in accordance with the laws of all electoral bodies of the country concerned with corruption and election crimes under the laws of the Republic of Poland. . This law applies to parliamentary and state legislative elections and does not apply to other elections including the president and vice president of India.

The fundamental difference between the two prohibited acts is that if a candidate commits fraud with the consent of a candidate or other person, the election results are distorted and the candidate is elected. If declared null and void, violations of the Election Act will not have a devastating effect on the outcome of the election. In the first case, the total voters suffer 4,444 as candidates lose their seats and remain without delegates in the legislature until another election is held to replace the unemployed. In the latter case, only those who commit crimes in connection with the election

are criminally liable.

Another noteworthy point is that any complaint of corruption may be brought only after an election and only in an election petition filed under the provisions of 329(b) and Part IV of the Judicial Procedure Code. ; However, violations of the Election Act may be prosecuted for other criminal acts subject to investigation and trial in accordance with the provisions of the Criminal Procedure Act immediately after the crime and immediately after the commencement of the trial. Code, 1973 Corruption relates to certain civic problems. For example, deprivation of voting rights and participation in elections for a period of time; However, for certain election law violations, with the exception of civil disability related to voting and participation in elections, any election violation is considered a crime and may result in imprisonment or fines or both.

Landmark Judgments

E Anoop v State of Kerala, 2012

The petitioner was allegedly at the polling place of the Mokeri Government U.P. Appeared. The school of members of Peringalam changed its name and presented itself as Kuttikkattu Pavitharan at the voting booth. He did this to get a vote, even though he was not the person he claimed and did not belong to its members / property. The court found him guilty of anthropomorphic crimes in Sections 171D and 171F.

Ikubarshin v. Gurdas Singh, 1975

In this case, the defendant was elected to parliament from the Punjab constituency. The petitioner was declared to have elected a defendant based on at least 15,000 invalid votes cast, and the defendant distributed a huge amount of money to Harijan on the pretext of supporting the construction of Dalit Shalas and gave them to voters. Satisfaction to get voted on. The petitioner alleged that this satisfaction could be perceived as a corrupt practice of bribery, affecting and manipulating the free legal rights of voters. Defendant could not prove that 15,000 invalid votes were cast. According to Rule 56 of the Election Rules, voting papers signed by the Election Commission and without a signature are invalid. It wasn't the same here. "Reward" is used only

to mean a bribe and to refer to the case where the gift offering provides significant benefits. The license granted in this case could not be described as a bribe because it did not provide a significant advantage. In addition, bribery requires the presence of voting negotiations. The question remained unfounded and the proceedings were withdrawn, as there was no evidence that they had negotiated a vote in exchange for a gun license.

Raj Raj Deb vs. Gangadhar, 1962

The interviewee was Raja's younger brother in Puri, Orissa. The petitioner alleges that the petitioner misused this fact in the Satyapadi district campaign and stated that he was "Charanti Vishnu", otherwise you would offend Sir Jagannath himself. And all the votes given to him were to Sir Jagannath. If he did not follow his instructions, he threatened sacred and emotional discomfort. He was also charged with asking villagers to vote for the caste of Kandayat. He also used Sir Jagannath's religious symbol, Niragakura, for the campaign. The court found it a violation of Section 171 FIPC.

Veeraghavanv. Rajinikanth, 1997

Defendant Rajinikanth is a well-established film actor who has gained a lot of support throughout India, especially in Tamil Nadu. The Supreme Court lawyer, the petitioner, accused him of unfairly affecting people because the defendant offered a telecamper asking voters to accept 500 rupees or rupees the night before the election. 1000 from the complainant and haven't voted for him yet. The question was whether this would attract IPC Section 171B, which deals with bribery, and IPC Section 171C, which deals with undue impact. The translated speech stated that Tamil Nadu voters cannot be affected or corrupted by these tactics. Therefore, if an opponent offers money as a bargain for voting, he will accept it without hesitation, but the Tamil Nadu people could not buy it and are still free to exercise his legal rights.

The court stated that the defendant had never advised him to seek and receive a bribe in his speech. The insulting speech was less insulting, and there was no obligation or negative evidence on the part of voters to refrain from what they wanted. The mentioned section of the IPC did not apply, the defendant was not guilty of any criminal offense and the proceedings were suspended.

SUGGESTIONS:

The Fifth Law Commission has proposed specific reforms to the IPC's current Chapter IXA with respect to significant changes. However, none of these provisions have so far been adopted and drafted. Reforms include changing the definition of "The right to vote." Current definitions exclude a candidate's right to withdraw a candidate from an election. The definition must include the phrase "whether or not to withdraw" the candidate.

Items on bribery and prescribed penalties, ie. Sections 171B and 171E should be combined into one section for better understanding.

Bribery should be severely punished and should be punished relatively harshly, as it greatly hinders the smooth and fair election process.

The definition of undue influence must be narrowed and it must include violent means that impede the free exercise of legal rights.

Similar to the recommendation on bribery, the two subclauses on personalization, IPC sections 171D and 171F, should be combined for a better understanding.

False statements may damage the public consciousness and the honor of candidates, so punishment is strengthened. A sentence of up to two years in prison is proposed instead of being fined only with a fine.

The Commission also removed sections 171F and 171I as they became redundant and obsolete. However, neither the legislature nor the commission of the 14th Act took these recommendations into account.

CONCLUSION:

The concept of free and fair elections is linked to political freedom and equality. When it comes

to elections, being “free and fair” means that no one is enslaved or influenced by anyone in the election process. When elections are held illegally, the public loses confidence in the electoral process and in democracy. Thus, free and fair elections are the basis of democratic forms of government. Obviously, these old punishments have become largely unnecessary and are not serious enough to not commit crimes. Each election candidate participates with the intent of victory and sees himself as the most viable option. To do this, dishonest methods may be used and may interfere with the fair election process. Election-related crimes must be taken seriously and punishments must be reviewed to ensure a fair election process. The recommendations of the Fifth Law Commission should be considered and revised accordingly.

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