Corrupt Practices in Representation of People Act, 1951

Why in news?

The Supreme Court observed that providing false information about an electoral candidate's qualifications cannot be considered a corrupt practice.

What is the Representation of People Act, 1951?

- The electoral system in India is governed by ***Articles 324 to 329 of Part XV*** of the Indian Constitution.
- The Parliament has the power to adopt laws concerning elections to the Parliament and the State Legislature, according to the Constitution.
- ***Article 324*** of the Constitution establishes the *Election Commission of India* as the country's watchdog for free and fair elections.
- In this context, the ***Representation of the People Act (RPA), 1950, and the Representation of the People Act, 1951,*** were enacted by Parliament.
- It governs elections to the Houses of Parliament and the Houses of the State Legislature, as well as the qualifications and disqualifications for membership in those Houses.
- It also governs the conduct of such elections and the resolution of doubts and disputes.

What happened in the present case?

- In *'Anugrah Narayan Singh v. Harsh Vardhan Bajpayee'*, a bench of the Apex Court heard a plea challenging a 2017 Allahabad High Court ruling.
- The ruling was regarding, dismissing a similarly titled petition to declare the election of an MLA as null and void.
- However, the Apex Court refused to interfere with the High Court's order of dismissal.
- The petition argued that the MLA indulged in a corrupt practice under *Section 123(2) and Section 123 (4) of the RPA, 1951.*
- The Allahabad High Court held that inaccuracy or concealment regarding educational qualification of the respondent did not amount to unduly influencing the voters.

What are corrupt practices under the RPA, 1951?

- **Section 123 of the Act –** It defines corrupt practices to include bribery, undue influence, false information, and promotion or attempted promotion of feelings of enmity by a candidate.
- **Section 123 (2) –** It deals with undue influence which it defines as any direct or indirect interference on the part of the candidate with the free exercise of any electoral right.
- This could also include threats of injury, social ostracism and expulsion from any caste or community.

- **Section 123 (3) –** It prohibits the candidate from using their race, caste, community or language for the purpose of seeking votes.
- **Section 123 (4) –** It extends the ambit of "corrupt practices" to the intentional publication of false statements which can prejudice the outcome of the candidate's election.

Under the provisions of the RPA Act, an elected representative can be disqualified if convicted of offences such as:

On grounds of corrupt practices
Failing to declare election expenses
Interests in government contracts or works

What practices has the court held as corrupt practices in the past?

- In 2017, the apex court held that an election will be annulled if votes are sought in the name of a candidate's religion, race, caste, community, or language, as per Section 123 (3).
- In 1994, in ***SR Bommai v. Union of India***, the court held, religion cannot be mixed with any secular activity of the State.
- In 1955, the Apex Court in ***Jamuna Prasad Mukhariya v. Lacchi Ram*** upheld the constitutional validity of Section 123 (3).
- In 2022, the SC directed a 3 judge bench to look into its 2013 judgment in ***S. Subramaniam Balaji vs State of Tamil Nadu***, where the court held that promises of freebies cannot be termed a corrupt practice.

Reference

1. Indian Express | What is a 'corrupt act'?

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