Daily Mains Practice Question 07-07-2026

GS II - Polity

The right to vote in India continues to remain a statutory right despite the constitutionalisation of several electoral rights through judicial interpretation. Examine this statement in the light of constitutional provisions and Supreme Court judgments. **(15 Marks, 250 words)**

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Answer

Introduction:

The right to vote (suffrage) enables citizens to participate in the democratic process by electing their representatives. The Supreme Court has consistently held that the right to vote is not a Fundamental Right but merely a statutory right. Various judicial interpretation has progressively constitutionalised key electoral rights by linking them to Article 19(1)(a) and the constitutional principle of free and fair elections.

Main Body

What are the constitutional & legal provisions?

- **Article 326** – It mandates that elections to the Lok Sabha and State Legislative Assemblies shall be conducted on the basis of universal adult suffrage.
- Accordingly, every citizen above the age of 18 years is constitutionally entitled to be registered as an elector.
- **Representation of the People Act (1958 & 1951)** – It operationalises the constitutional mandate contained in Article 326 by prescribing procedures for electoral rolls, qualifications, disqualifications, and voting procedures.

Key Supreme Court judgements: Constitutionalisation of electoral rights

- **N.P. Ponnuswami vs Returning Officer (1952)** – Held that the right to vote and contest elections are not common law rights but rights created by statute.
- **Jyoti Basu & Others vs Debi Ghosal & Others (1982)** – The court observed that the right to vote is neither a Fundamental Right nor a common law right, but purely a

statutory right.

- **Union of India Vs Association for Democratic Reforms (2002)** – The court held that voters possess the right to know the criminal antecedents, educational qualifications, financial assets and liabilities of electoral candidates under Article 19(1)(a).
- **People's Union of Civil Liberties (PUCL) vs Union of India (2003)** – The Court drew a distinction between the right to vote (statutory) and freedom of voting, which includes making an informed electoral choice under Article 19(1) (a).
- **Kuldip Nayar vs Union of India (2006)** – The Court reiterated that although democracy forms part of the Constitution's basic structure, the individual right to vote flows from legislation, especially the Representation of the People Act.
- **PUCL (2013)** – The Court upheld NOTA, recognising the right to reject candidates and secrecy of the ballot as forms of political expression protected under Article 19(1)(a).
- **Anoop Baranwal v. Union of India (2023)** – Though the majority did not support voting as a Fundamental Right, separate opinions and the Constitution Bench acknowledged an emerging constitutional dimension to voting.

Critical Examination

- The court recognised constitutional protection for the right to know, freedom to make an informed choice, secrecy of the ballot and the right to reject all candidates; it continued to classify the actual act of voting as merely statutory.
- This creates an obvious constitutional anomaly: If the Constitution protects a citizen's right to reject every candidate, it is difficult to explain why it does not similarly protect the right to choose one.
- Given that democracy and free and fair elections form part of the basic structure, there is a growing case for reconsidering the legal status of voting without limiting Parliament's power to regulate electoral procedures.

Conclusion:

The Supreme Court’s jurisprudence has reshaped voting from a statutory benefit into a form of constitutional participation. While the right to vote remains statutory, judicial interpretation has constitutionalised several electoral rights, strengthening democratic engagement. This evolution harmonises election law with constitutional ideals without altering the legal character of voting.

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