Did the Prime Minister's broadcast violate MCC?

Mains: *GS-II – Polity & Governance | Elections*

Why in News?

Prime Minister Narendra Modi's recent address to the nation has sparked debate over whether it violated the MCC, as he criticised opposition parties for blocking the Women's Reservation Bill in the Lok Sabha.

What is the Model Code of Conduct (MCC)?

- **Definition** – It is a set of guidelines issued to political parties, candidates and the government to ensure free and fair elections.
- It is often described as a *voluntary* "Moral Code of Conduct"
- **Legal Status** – It *lacks statutory backing*, relying on *Article 324* and moral authority.
- **Indirect Legal Enforcement** – Many MCC provisions overlap with the Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and Representation of the People Act (RPA), 1951, etc.
- **Sanctions** – Range from *censure to the suspension* of party recognition under *paragraph 16A of the Election Symbols Order, 1968*.
- **Duration** – It comes into force immediately after the election schedule is announced and remains until the process concludes.
- **Coverage**
  - General elections to the Lok Sabha - The entire country.
  - State Assembly elections - The concerned state.
  - By-elections - The specific district/constituency.
  - All organisations, committees, corporations, and commissions funded wholly or partly by the government.
- **Interpretation** – A thin line often separates what is allowed or isn't under the MCC.
- The Election Commission (EC) or State Electoral Officer often acts as the arbiter and decides *in case of disputes*.

How did the Model Code of Conduct evolve?

- **Origin** – It was first drafted by the Kerala government in 1960.
- **Formalisation** – Adopted by the Election Commission (EC) in 1968, revised it in 1974, and added Part VII on the "party in power" in 1979.
- **Strict Enforcement** – Former Chief Election Commissioner T.N. Seshan enforced it rigorously from 1991, making it a powerful tool in Indian elections.
- **Key Judicial Rulings**

- **Mohinder Singh Gill v. Chief Election Commissioner (1978)** – The SC described Article 324 as "a reservoir of power" that *allows the EC to act where Parliament has not legislated*.
- **Harbans Singh Jalal v. Union of India (1997)** – The Punjab & Haryana High Court held that the Code *comes into effect from the announcement of the election schedule*.

Does the Prime Minister's broadcast violate the Code?

- **Part VII of the MCC**
- **Clauses 1(a), 1(b), and 4** – Prohibit the party in power from
  - Combining official visits with electioneering,
  - Using government machinery for campaign work, and
  - Misusing publicly funded mass media for partisan coverage during the election period.
- **Representation of the People Act, 1951**
- **Section 123(3) of RPA, 1951** – Amended in 1961, makes it a corrupt practice for a candidate or his agent to appeal to voters on the ground of "his" religion, race, caste, community, or language.
- The provision turns on a pronoun, "his", and five enumerated nouns.
- **Abhiram Singh v. C.D. Commachen (2017)** – A 7-judge Bench of the Supreme Court (4:3 majority) ruled that "his" extends to the voter as well as the candidate.
- **Flexibility vs. Rigidity** – The RPA statute is less flexible than the Code.
- The Code asks what the incumbent did with public resources.
- It does not provide a closed list of impermissible appeals; that open texture is deliberate.
- **April 18 PM's Address** – It appears to fall under Part VII concerns.
- **EC's Role** – At present, the Election Commission has not taken action on the complaints it has received.

What do the law and the courts say about such appeals?

- **Abhiram Singh Case (2017)** – Dealt with the pronoun "his" in Section 123(3) of the RPA, extending it to both candidates and voters.
- But Section 123(3) of the statute's five nouns (*religion, race, caste, community, language*) were never meant to cover every kind of partisan appeal.
- **April 18 Address** – Ran around gender, targeted party affiliation, and PM used Doordarshan as the medium.
- The objection here is not to the identity of the audience, but to the *partisan use of publicly funded media*.
- **Pending Writ Petition** – Filed in SC by former Congress MP T.N. Prathapan & candidate in Kerala, opens a different statutory route.
- **Statutory Route** – It invokes *Section 123(7) of RPA, 1951*, not 123(3).
- **Section 123(7)** – Makes it a corrupt practice to obtain or procure the assistance of government servants, including gazette officers, for the furtherance of a candidate's electoral prospects.
- Originally meant to stop candidates from pressuring police/revenue officials.
- **Argument** – Petition argues that the use of Doordarshan and Sansad TV, along with

Prime Minister's Office personnel, to prepare and disseminate a partisan broadcast falls within this prohibition.

- **Key Distinction** – *Section 123(3)* focuses on the grounds of an appeal, *Section 123(7)* turns on who was pressed into service to deliver it.
- **Broader Implications**
  - The MCC, unlike the RPA, was written to be open-textured; Part VII asks what the party in power did with public resources.
  - The RPA sets a floor on corrupt practice, not a ceiling on what the Code can reach.
  - The statute asks which of five categories the appeal invoked, or whose assistance it procured.

What lies ahead?

- The Commission's silence on PM's broadcast is not a doctrinal difficulty.
- But, it is a choice not to use the one instrument in Indian electoral regulation, which was designed precisely for such situations where the statute may apply only later.
- If the court admits the petition and the Commission is compelled to answer, the architecture of MCC enforcement may face its hardest test yet.

Reference

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