Validity of an Election

Mains: *GSII – Powers, Functions and Responsibilities of various Constitutional Bodies*

Why in News?

Recently, The Supreme Court overturned the result of sarpanch election of Buana Lakhu village in Haryana's Panipat district after conducting a recounting of votes.

What is the Legal framework for challenging an election?

- **Filing of petition** – The validity of the results of Parliamentary, Assembly, state council or local government elections can be challenged by filing an election petition.
  - **For parliamentary, Assembly, and state council** – It is be filed before the High Court of the particular state in which the election was conducted.
  - **For local government elections** – It is to be filed at the district-level civil courts.
- **Authorised person** – The petition can only be filed by a candidate or an elector related to the election in question.
- **Time period** – It has to be filed *within 45 days* from the date of declaration of results.
- **Contents of the petition** – The petition must contain a concise statement of all material facts on which the challenge is based.
- If a petition has allegations of corrupt practices it must provide details such as the names of individuals involved, and the date and place of the alleged act.
- **Dismissal of petitions** –*Vague or ambiguous claims are not entertained*, and a petition that fails to state material facts can be dismissed at the outset.
- The SC has repeatedly held that allegations of corrupt practices are quasi-criminal and require a high standard of proof.

What are the Grounds for invalidating an election?

- **Corrupt practices** — If candidate failing to disclose their criminal antecedents or promoting enmity among social groups.
- **Qualification disputes** – If the winning candidate was not qualified or was disqualified on the date of their election.
- **Rejection of nomination** – Improper rejection of a nomination paper of an electoral candidate.
  - Improper acceptance of a nomination or the improper reception or rejection of votes (but only when it is proven that these actions materially affected the election's outcome).
- **Defying of law** – Non-compliance with the Constitution or any election laws and rules,

if such non-compliance materially affected the result.

What is the basis for recounting of votes?

- **Facts and evidences** – A recount of votes is one of the remedies a court can order, but it is not granted casually.
- Therefore, a court will only order a recount if the petitioner presents specific, material facts and provides sufficient evidence to establish a prima facie case that a mistake in counting is probable and that a recount is necessary.
- **Location for recounting** – Courts usually order vote recounts to take place at the location where the election was held.
- But in the case of the Panipat sarpanch election dispute, the SC recounted the votes at its premises.
- **Issues with recounting** – It is seen as potentially compromising the secrecy of the vote, a cornerstone of free and fair elections.

When courts can declare a new winner?

- **Proof by the petitioner** – He/she must prove that they would have secured a majority of votes if not for the votes obtained by the winning candidate through corrupt practices.
- This requires concrete evidence to quantify the votes tainted by corruption.
- **Satisfaction of the court** – The court must be satisfied that the petitioner or another candidate received a majority of the valid votes.
- **Recent incidents** – In February 2024, the SC declared a new electoral winner in the Chandigarh mayoral election.
- It is found that the polling station presiding officer had wrongfully marked eight paper ballots as invalid.
- All the votes had been cast for the losing candidate.
- The court ordered that these votes be treated as validly cast in the losing candidate's favour, which helped him win the election.

Reference

[The Indian Express| Validity of an Election]

SHANKAR IAS PARLIAMENT
Information is Empowering