

**GOVERNMENT OF INDIA
LAW , JUSTICE AND COMPANY AFFAIRS
LOK SABHA**

STARRED QUESTION NO:61

ANSWERED ON:23.11.2000

ENTRY OF CANDIDATES WITH CRIMINAL BACKGROUND IN PARLIAMENT ASSEMBLIES

RAMDAS ATHAWALE;SHIVAJI MANE

Will the Minister of LAW , JUSTICE AND COMPANY AFFAIRS be pleased to state:

- (a) whether there is a proposal to make adequate provisions for banning the entry of people with criminal background in Parliament and State Assemblies;
- (b) if so, the details thereof;
- (c) whether any direction has been issued by Delhi High Court in this regard;
- (d) if so, the details thereof alongwith the steps taken in this regard;
- (e) whether the Government have examined the D.N. Vohara Committee report set up for the purpose; and
- (f) if so, the recommendations made by the Committee and the action taken by the Government thereon?

Answer

MINISTER OF LAW, JUSTICE & COMPANY AFFAIRS AND SHIPPING (SHRI ARUN JAITLEY)

(a) to (d) A number of provisions already exist in law to prevent corrupt and criminal elements from entering electoral arena or from adversely affecting the election process. Section 8 of the Representation of the People Act, 1951, contains provisions for disqualifying a person on conviction for certain offences. The Election Commission of India, which has been entrusted the task of superintendence, direction and control of elections, has held the view that it is conscious of the fact that in the eyes of law, a person may not be assumed to be innocent unless proved guilty. However, this may not be so in the eyes of the general public. According to the Election Commission, Parliament and State Legislatures are apex law-making bodies and should be composed of persons who enjoy high reputation in the eyes of the general public and should be perceived by them to be persons of integrity. A person who is charged of a serious offence, and a court of law is prima facie satisfied and has, after weighing the evidence before it, framed charges against it, should not become a potential law-maker by being permitted to contest elections. On 29th April, 2000, the Election Commission of India convened a meeting of recognized national and State political parties. One of the items in the agenda included 'criminalisation of politics'. There was no consensus over the proposals of the Election Commission that (a) the law may be simplified by amending section 8 of the Representation of the People Act, 1951 to provide that any person convicted of an offence by a Court of law and sentenced to imprisonment for six months or more should be debarred from contesting elections for a period totaling the sentence imposed plus an additional six years, and (b) that any person who is accused of any offence punishable with imprisonment for five years or more should be disqualified, even when his trial is pending, provided that the competent Court of law has taken cognizance of the offence and framed the charges against him. Recently the Delhi High Court by its judgment dated 2nd November, 2000 in the CWP No. 7257 of 1999 (Association for Democratic Reforms Vs. Union of India and others) has directed the Election Commission to secure to the voters the following information pertaining to each of the candidates standing for elections to Parliament and to the State Legislatures, and the parties they represent:-

- (i) Whether the candidate is accused of any offence(s) punishable with imprisonment? If so, the details thereof.
- (ii) Assets possessed by a candidate, his or her spouse and dependent relations.
- (iii) Facts giving insight into candidate's competence, capacity and suitability for acting as parliamentarian or legislator including details of his/her educational qualifications.
- (iv) Information which the Election Commission considers necessary for judging the capacity and capability of the political party fielding the candidate for election to Parliament or the State Legislature.

The Hon'ble Court has also directed that the norms and modalities to carry out and give effect to the aforesaid directions should be drawn up by the Election Commission within four months. Further, the Court has directed that in order to comply with the aforesaid directions it will be open to the Election Commission to issue directives to the concerned government(s) or department(s), e.g., Central Government, State Government(s), Intelligence Bureau, etc., to render assistance to gather the requisite and relevant information, as the Election Commission deems fit and proper and the said authorities shall be duty bound to provide the same.

The Election Commission proposes to discuss and deliberate upon the directions of the Hon'ble Court at the appropriate time. The Government is considering filing Special Leave Petition against the judgment of the Delhi High Court in view of its legal and practical implications.

(e) & (f) The Vohra Committee was set up to take stock of available information about the activities of crime syndicates / mafia organizations which had developed links with and were being protected by the Government functionaries and political persons. The report of the said Committee did not deal with the antecedents of the candidates contesting elections to Legislatures. The Government has set up a nodal group which facilitates regular sharing of information with regard to the subject dealt by Vohra Committee report.