

**GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA**

UNSTARRED QUESTION NO:540

ANSWERED ON:07.08.2013

SCIRULING ON RPA

Bhagora Shri Tarachand;Meghwal Shri Arjun Ram ;Mitra Shri Somendra Nath;Panda Shri Prabodh;Singh Alias Pappu Singh Shri Uday;Tarai Shri Bibhu Prasad

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

- (a) whether the Government's attention has been drawn to a ruling given by the Supreme Court of India striking down the section 8(4) of the Representation of the Peoples Act, 1951 which protects convicted MPs and MLAs from disqualification if they appeal before a higher court within three months, on the ground of pendency of appeal;
- (b) if so, the details thereof and the Government's reaction thereto;
- (c) the details of the legislative provisions in this regard existing in other democratic countries of the world;
- (d) whether criminalization in politics in the country is increasing;
- (e) if so, the steps taken by the Government to restrict the entry of criminal elements in election process; and
- (f) the steps/measures taken by the Government to check the criminalization of politics in the country?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF LAW AND JUSTICE AND COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI KAPIL SIBAL)

(a) Yes, Madam.

(b) There were three writ petitions filed before the Hon'ble Supreme Court. These writ petitions numbered as WP (C) No. 490 of 2005 titled as Lily Thomas Vs. Union of India; WP (C) No. 231 of 2005 titled as Lok Prahari Vs Union of India and WP (C) No. 694 of 2004 titled as Basant Kumar Chaudhary Vs. Union of India. The core issue before the Court in these cases was the validity of section 8(4) of the Representation of the People Act, 1951. The Hon'ble Court vide its Judgment dated 10-07-2013 has held that the Parliament had no legislative power to enact sub- section (4) of the Section 8 of the said Act and accordingly sub-section (4) of Section 8 of the 1951 Act is ultra vires the Constitution. The Government has decided to file review petition in the said judgement. The Government is also examining proposal to bring necessary legislative changes.

(c) There is no such information available with the Government.

(d) to (f) There is a perception that the criminalization of politics in the country is increasing. The Government is committed to bring forward a purposive agenda for electoral reforms, which inter alia includes de-criminalization of politics. With this end in view, the issue of electoral reforms in its entirety has been referred to the Law Commission of India with a request to consider the issue after taking into consideration the reports of various committees in the past, views of the Election Commission and other stake holders and suggest comprehensive measures for changes in the law. The Law Commission has been requested to give concrete suggestions at the earliest. On receipt of the recommendations of the Law Commission, matter will be further examined in consultation with the stake holders.