

Can a law be more fake than this?

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It has been claimed that the Representation of the People (Amendment) Bill, 2002, which has been drafted by the government with such unseemly haste, is an attempt to settle the longstanding issue of debarring criminals from entering into our legislatures. The government should, however, know that in a democratic society: no issue of debarring criminals from entering into our legislatures. The government should, however, know that in a democratic society: no issue can ever be treated as settled unless it is settled right and unless it is done in consultation with the public.

For the last so many years, citizens have been demanding amendments in law to debar the entry of criminals into our legislatures. The existing provisions in the Representation of the People's Act, 1951, disqualify a person from gaining entry into the legislatures only if he is convicted of an offence specified in Section 8 or found guilty of a corrupt practice. The existing law has failed to prevent entry of criminals, which is obvious from the fact that so many of them have now won elections to 'serve the public.' The fault lies not only with the election laws but with the way our criminal justice system has been functioning. Besides being slow, cumbersome and dilatory, the system has failed to bring the rich and powerful to justice.

The Supreme Court's order of May 2, implemented through the Election Commission's guidelines of June 28, does not deal with the disqualification issue. All it says is that a citizen has a right to know a candidate's criminal background, assets and liabilities and educational qualifications so that he can make an informed choice before casting his vote. The idea of disclosing information appears to have unnerved the politicians so greatly that they immediately closed ranks and urged its rejection. The Bill inserts a new clause in the principal Act (Section 33 A), which says that a candidate is required to furnish information only under the Act and no decree, order or direction of any court or EC in this respect needs to be complied with.

The Bill makes a concession and requires a candidate to inform by filing an affidavit along with his nomination papers if he is accused of any offence punishable with imprisonment for more than two years in a pending case where the charges has been framed by a competent court. The Bill indicates that the politicians are more afraid of declaring their assets and liabilities and their criminal background than being charged in a court of law with having committed heinous offences. They are fully aware that it will take years before charges are framed by courts in criminal proceedings, if at all the cases against politicians reach that stage. For a criminal case against a politician to reach the court, it is necessary to have a police force, which is insulated from illegitimate political pressures. Do we have such a police force? One need not go to Gujarat to answer that we do not. Thus, presently, it will be one of the rarest of rare cases when a politician still holding power is taken in a criminal proceeding to a stage where he has to face charges framed by a court of law, not once but twice. Declaration of assets, however, is a different ball game altogether, raising questions of how he has acquired them.

Though a citizen's right to have full information about the candidate's background is not being recognized by law, the Bill makes a fraudulent attempt to convey that its purpose is to debar criminals from entering into legislatures. It adds Section 8B to the principal Act, which would have the effect of disqualifying a person against whom (i) charges have been framed by a competent court (ii) in two separate criminal proceedings, showing his involvement (iii) in 'heinous offences' and this should have been done at least (iv) six months prior to the date of filing nomination papers.

There are some peculiar features about the Bill that should be noted. One, a person to be disqualified must be involved in two separate criminal proceedings-with the proviso which says that any proceeding which is stayed will not be considered. Two, the offence must be heinous. He can commit offences like, robbery, arson, riots, he can cause grievous hurt, manufacture arms, smuggle goods, but still not be disqualified under this Bill.

Can any piece of legislation be more fake than this? But then, if it were not for such absurd attempts of the government to put wool over our eyes, we would have nothing left to laugh at.