

25– 03 – 2023

News: Rahul disqualified as MP; Cong. calls it ‘black day’ for democracy

- A day after the **Chief Judicial Magistrate’s court in Surat convicted former Congress president Rahul Gandhi in a criminal defamation case over his Modi surname remark**; the Lok Sabha Secretariat on Friday issued a notification to **disqualify Mr. Gandhi as the Lok Sabha member from Wayanad.**
- As per existing laws, Mr. Gandhi **would stand disqualified to contest in elections for 6 years (the period which starts from the end of imprisonment), which in practice would debar him from contesting in election for 8 years.**

Disqualification of Member of Parliament / legislative assemblies

A person would be ineligible for being a Member of the Lok Sabha if the person:

- Holds **any office of profit under the Government of India** (other than an office permitted by Parliament of India by law).
- Is of **unsound mind.**
- Is an **insolvent.**
- Has **ceased to be a citizen** of India.

- Is so **disqualified by any law** made by the Indian parliament.
- Is so **disqualified on the ground of defection**.
- Has **been convicted, among other things, for promoting enmity between different groups**.
- Has been convicted for offence of **bribery**.
- Has **been punished for preaching and practising social crimes such as untouchability, dowry, or sati**.
- Has **been convicted for an offence and sentenced to imprisonment of more than two years**.
- Has been **dismissed for corruption or for disloyalty to the state** (in case of a government servant).
- Here **heinous offences like bribery or untouchability need not to be convicted for 2 years. Conviction for more than 6 months would be sufficient to invoke disqualification**.
- In Mr. Gandhi's case, **he has been convicted for 2 years under the defamation case, which has invoked the disqualification**.

Supreme Court in Disqualification

- Supreme Court of India, **in its judgment dated 10 July 2013 while disposing the Lily Thomas v. Union of India case** (along with Lok Prahari v. Union of

India), ruled that any Member of Parliament (MP), Member of the Legislative Assembly (MLA) or Member of a Legislative Council (MLC) who is convicted of a crime and given a minimum of two years' imprisonment, loses membership of the House with immediate effect.

- This is in contrast to the earlier position, wherein convicted members held on to their seats until they exhausted all judicial remedy in lower, state and Supreme Court of India.
- Further, Section 8(4) of the Representation of the People Act, which allowed elected representatives three months to appeal their conviction, was declared unconstitutional by the bench of Justice A. K. Patnaik and Justice S. J. Mukhopadhyaya.

Notable cases and instances

- The Allahabad high court invalidated found Indira Gandhi, who was the then Prime Minister, guilty on the charge of misuse of government machinery for her election campaign. The court declared her election null and void and unseated her from her seat in the Lok Sabha representing Rae Bareilly constituency. The court also banned her from contesting any election for an additional six years. This resulted in declaration of emergency and amendments were made in the constitution to validate the election.

- As part of the disproportionate assets case against Jayalalithaa, she became in 2014 the first Chief Minister to be disqualified from office.
- Umlesh Yadav is the first politician to be disqualified by the Election Commission of India for a period of three years for suppression of her election expenses incurred when she was elected as an MLA to the Bisauli constituency in the 2007 Uttar Pradesh state assembly elections.