The Supreme Court, in two much-awaited cases, pronounced judgment this week.

First, the court (comprising Chief Justice Dipak Misra, Justice AM Khanwilkar and Justice DY Chandrachud) said that legislators, who continue practice whilst they also hold elected positions cannot be barred from practicing. The Bar Council of India had earlier said that professions like medicine and law, however demanding they may be, are compatible with public service. The court acknowledged that MPs and MLAs are not full-time employees of the State Government.

The second decision was adjudging if candidates, against whom criminal charges had been framed, could be disqualified from contesting elections. The five judge constitutional bench (Comprising Chief Justice Dipak Misra, Justice AM Khanwilkar, Justice Rohinton Nariman, Justice DY Chandrachud and Justice Indu Malhotra) said that it was not within its domain to add additional disqualifications to the list that already exists in the Constitution. Nonetheless, the Court issued directions and urged the Parliament to draft legislation to curb ‘criminalisation’ of the legislature.

The directions require the candidates to fill in the information in their nomination papers, about any pending cases in full. If they are contesting on a ticket from a political party, the party must be informed. The party, in turn, must put up this information on their website and publicise it. Additionally, the candidate, as well as the political party are obligated to publicise information with reference to the antecedents, at least thrice after filing in the nomination.

According to reports by the Association for Democratic Reforms, out of the 541 MPs in the Lok Sabha, 186 declared pending criminal cases against them. In other words, every 3rd Member of Parliament in the 16th Lok Sabha has a criminal charge pending against them. This is steep a rise from previous statistics of 24 percent in 2004. In some states, like Uttar Pradesh, 47 percent of the MLAs have cases pending against them.
It is certainly important to remember that these are pending cases and not actual convictions. This means that the charges have been framed but the courts have not pronounced guilt or innocence yet. For convicted politicians, who were to serve a term of more than 2 years, the Supreme Court had earlier banned their candidature. The principle of *innocent until proven guilty* is a sacrosanct principle – and one that should be applicable to the members of Parliament as it is to other citizens.

Nonetheless, the Houses of Parliament as well as the state legislatures must act towards a situation where the elected representatives’ conduct is that of a model citizen. The Supreme Court as well, said that the parliament should work towards bringing in legislation to this effect. The Chief Justice added,

“The unsettling increasing trend of criminalization of politics, to which our country has been a witness, tends to disrupt the constitutional ethics and strikes at the very root of our democratic form of government by making our citizenry suffer at the hands of those who are nothing but a liability to our country.”

In a healthy democracy, the house of elected representative is the beating heart and soul. Not only do the elected reflect the public demands but they also simultaneously shape the public opinion and discourse. Members of Parliament should always be aware of the sacred duty to values of the constitution and constitutionality. Their role is one of great privilege, honour as well as responsibility and one that should be discharged as such.

Equally, as citizens, the onus is on us to always ask the right questions. Accountability, transparency and responsibility cannot be a one-sided affair. The demand for these should be made by all sections of the society. What happens in the Parliament is a reflection on us – democracy, after all, to quote the great Abraham Lincoln is ‘Government of the People, By the People and For the People.’

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