

This is why Supreme Court has asked the Central government to seek views of Finance Commission on preventing freebies by political parties

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On Tuesday, the Supreme Court ordered the Central government to consult the Finance Commission over the problem of political parties bribing votes with gifts.

Additional Solicitor General KM Nataraj, speaking on behalf of the Central government, was instructed by a bench consisting of Chief Justice of India NV Ramana, Justices Krishna Murari, and Justices Hima Kohli,

"Mr. Nataraj, kindly request that the Finance Commission investigate this. Next time, we shall list this. Please consider how to start a discussion."

After asking Senior Counsel Kapil Sibal, who was in court for another case, for his opinion, the court made the suggestion.

"As a senior member of parliament, Mr. Sibal is present. What do you think?" Court inquired.

"The issue is significant, yet there is no easy fix. The debt of states and then freebies should be considered when the Finance Commission makes allocations to different states. Directions from the Center cannot be expected," Says Sibal.

The Court was motivated by this to consult the Finance Commission.

Ashwini Kumar Upadhyay, a BJP spokesperson, filed a public interest litigation (PIL) petition asking the court to register criminal charges against political parties for enticing voters with gifts during elections.

Amit Sharma, an attorney for the Election Commission of India (ECI), said before the court that earlier rulings had determined that a manifesto constituted a component of the promises made by a political party. CJI Ramana responded by saying,

"We are relying on giveaways to extort the public. If you insist that you don't need to become involved, then what does the Election Commission of India do?"

Sharma suggested that the Central government may pass legislation to address the problem, but ASG Nataraj replied that the ECI was best suited to handle it.

CJI Ramana, however, countered,

"The Government of India has no opinion on this, I will then record. Is the problem there serious? Why is the Centre reluctant to voice its opinion?"

Upadhyay responded to the Court's request for advice on how to address the issue of freebies by saying,

"I disagree that ECI is powerless to act. State and national parties should not be allowed to make such pledges, and ECI should forbid them from doing so. I have a right to know this as a citizen, and only the parties' manifestos should disclose the state's debt level."

The Court next sought the opinion of Senior Attorney Kapil Sibal, who provided his insight while emphasising the function of the Finance Commission.

The hearing was subsequently put on hold while the Bench requested the assistance of the Finance Commission.

The Election Commission informed the Supreme Court in its affidavit submitted in the case in April that it lacks the authority to deregister political parties that promise and give away gifts to voters before and after elections.

According to the affidavit, "...forbidding political parties from promising/distributing freebies from public funds before election, as prayed above, may result in a situation where the parties may lose their recognition even before they demonstrate their electoral performance in elections."

Additionally, the Commission had ruled that a party's policy is to decide whether to distribute gifts using public monies before to elections. In this regard, the Commission's position was that it could not control any state policies or actions that the victorious party might make when it becomes the government.