

**3RD SURANA & SURANA & KLE LAW COLLEGE NATIONAL  
CONSTITUTIONAL LAW MOOT COURT COMPETITION – 2019**

---

---

**BEFORE THE HON'BLE  
SUPREME COURT OF BHARAT NADU**

---

**ORIGINAL JURISDICTION  
WRIT No. \_\_\_ OF 2019**

---

---

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF UNION OF BHARAT NADU  
READ WITH O.XLVII, R.5 OF THE SUPREME COURT RULES, 1966**

**IN THE MATTER OF**

---

---

**UNITED NATIONAL CONGRESS PARTY AND OTHERS** .....PETITIONER 1

**BHARATH NADU YOUTH PARTY** .....PETITIONER 2

**MR. BELLİYAPPA** .....PETITIONER 3

**RAITH MITRA** .....PETITIONER 4

*versus*

**UNION OF BHARAT NADU** .....RESPONDENT

---

---

**MEMORANDUM ON BEHALF OF THE COUNSEL OF PETITIONER**

---

---

**TABLE OF CONTENTS**


---

<b>LIST OF ABBREVIATIONS.....</b>	<b>i</b>
<b>INDEX OF AUTHORITIES.....</b>	<b>ii</b>
<b>STATEMENT OF JURISDICTION .....</b>	<b>viii</b>
<b>STATEMENT OF FACTS .....</b>	<b>ix</b>
<b>ISSUES RAISED.....</b>	<b>x</b>
<b>SUMMARY OF ARGUMENTs.....</b>	<b>xi</b>
<b>BODY OF ARGUMENTS .....</b>	<b>1</b>
<b>ISSUE I; Whether The Constitution (104<sup>th</sup> Amendment) Act, 2019 Is Consistent With The Constitutional Provisions Of Bharat Nadu. ....</b>	<b>1</b>
1.1] The Constitution (104th Amendment) Act, 2019 affects the federal structure .....	1
1.2] The Constitution (104th Amendment) Act, 2019 affects the democratic structure....	4
<b>ISSUE II; Whether Section 123(9) Of The Representation Of The People Act, 1951 Is Incosistence With The Principle Of The Constitution. ....</b>	<b>9</b>
2.1] Promises made by a political party of any gainful benefits in their manifesto do not constitute a corrupt practice under Sec. 123 of RP Act, 1951.....	9
2.2] Sec. 123(9) is in violation of the Art.19(1)(a) of the Political Parties .....	10
2.3] Sec. 123(9) is in violation of Fundamental Rights of the farmers guaranteed under Articles 19(1)(a) and 21 of the Constitution.....	12

**ISSUE III; Whether Section 29D And 168A Of The Representation Of The People Act, 1951 Is Inconsistent With The Principle Of The Constitution. .... 14**

3.1] Secs. 29 D & E violate Article 19(1)(c) of the Political Parties ..... 14

3.2] Section 168 A of the Representation of The People Act, 1951 violates The Freedom of Conscience ..... 15

**PRAYER ..... xii**

## LIST OF ABBREVIATIONS

ABBREVIATION	EXPANSION
HON'BLE	HONOURABLE
¶	PARAGRAPH
¶¶	PAGES
ART.	ARTICLE
SEC.	SECTION
NO.	NUMBER
VOL.	VOLUME
ED.	EDITION
MOOT PROP.	MOOT PROPOSITION
SC	SUPREME COURT
V.	VERSUS
SCC	SUPREME COURT CASES
AIR	ALL INDIA REPORTERS
I.E.	THAT IS
LTD.	LIMITED
&	AND
RPA	REPRESENTATION OF PEOPLE'S ACT
SR.	SERIAL
MCC	MODEL CODE OF CONDUCT
UNCP	UNITED NATIONAL CONGRESS PARTY
BNJP	BHARATH NADU JANATA PART
BNYP	BHARATH NADU YOUTH PARTY
EC	ELECTION COMMISSION
DPSP	DIRECTIVE PRINCIPLES OF STATE POLICY

---



---

**INDEX OF AUTHORITIES**


---

**I. CASE LAW**

❖ <i>All India Bank Employees' Asscn. v. N.I. Tribunal</i> , AIR 1962 SC 171 .....	14
❖ <i>American Communications v. Douds</i> , (1950) 339 US 382(383).....	14
❖ <i>Association for Democratic Reforms v. Union of India</i> , AIR 2001 Del 126.....	12
❖ <i>B.R. Kapoor vs State Of Tamil Nadu And Anr</i> , (2001) 7 SCC 231.....	4
❖ <i>Baldev Singh Mann v.Surjit Singh Dhiman</i> , (2009) 1 SCC 633. ....	9
❖ <i>Bandhua Mukti Morcha v.Union of India</i> , (1984) 3 SCC 161.....	13
❖ <i>Bishambhar Dayal Chandra Mohan v. State of Uttar Pradesh</i> , (1982) 1 SCC 39.....	11
❖ <i>Chanda Singh v. Choudhary Shiv Ram Verma &amp; Ors.</i> , AIR 1975 SC 403.....	4
❖ <i>Charan Singh v. State of Punjab</i> , (1997) 1 SCC 151. ....	13
❖ <i>Chief Information Commissioner v. State of Manipur</i> , AIR 2012 SC 864.....	12
❖ <i>Chitaman Rao v. State of Madhya Pradesh</i> , AIR 1951 SC 118 .....	11
❖ <i>D.S Nakara v. Union of India</i> , AIR 1983 SC 130.....	9
❖ <i>Dalmia Cement (Bharat) Ltd. v. Union of India</i> ,(1996) 10 SCC 104 .....	13
❖ <i>Damayanti Naranga v. Union of India</i> , (1971) 1 SCC 678.....	15
❖ <i>Dharam Dutt v. Union of India</i> , AIR 2004 SC 1295.....	10
❖ <i>Dinesh Trivedi v. Union of India</i> , (1997) 4 SCC 306.....	12
❖ <i>Dr. P. Nalla Thampy Terah vs Union Of India &amp; Ors</i> , 1985 AIR 1133 .....	4
❖ <i>EU v. San Francisco County Democratic Central Committee</i> , (1989) 489 US 214...	14
❖ <i>Francis Coralie v. Delhi</i> , AIR 1981 SC 746.....	12
❖ <i>G.B Pant University of Agriculture &amp; Technology v. State of Uttar Pradesh</i> , (2000) 7 SCC 109.....	9
❖ <i>Ganga Ram Moolchandani v. State of Rajasthan</i> , AIR 2001 SC 2616.....	1
❖ <i>Government of NCT of Delhi v. Union of India &amp; Anr.</i> , (2018) 8 SCALE 72 .....	1,2, 6
❖ <i>Harakchand v. Union of India</i> , AIR 1970 SC 1453 .....	11
❖ <i>I.R. Coelho (dead) by L.R.s v. State of Tamil Nadu</i> , AIR 2007 SC 861.....	7
❖ <i>ICAI v. Shanuk H. Satya</i> , (2011) 8 SCC 781 .....	12
❖ <i>Imperial Tobacco Company Limited. v. Agricultural Produce Market Committee</i> , AIR 2002 SC 852.....	1

❖ <i>Indian Soaps and Toiletries Makers Association v. Ozair Husain</i> , (2013) 3 SCC 641 .....	12
❖ <i>Jindal Stainless Ltd. v. State of Haryana</i> , AIR 2016 SC 5617 .....	1
❖ <i>Jyoti Basu &amp; Ors. v. Debi Ghosal &amp; Ors.</i> , AIR 1982 SC 983.....	5
❖ <i>Kabul Singh v. Kundan Singh &amp; Ors.</i> , AIR 1970 SC 340.....	5
❖ <i>Kesavananda Bharati &amp; Ors. v. State of Kerala &amp; Anr.</i> , AIR 1973 SC 1461.....	1, 7
❖ <i>Kharak Singh v. State of U.P.</i> , AIR 1963 SC 1295.....	13
❖ <i>Kihoto Hollohan v. Zachilhu</i> , AIR 1993 SC 412. ....	7
❖ <i>Krishnamoorthy. v. Sivakumar</i> , AIR 2015 SC 1921. ....	5
❖ <i>Krishnan Kakkanth v. Govt. of Kerala</i> , AIR 1997 SC 128.....	11
❖ <i>Kuldip Nayar &amp; Ors. v. Union of India &amp; Ors.</i> , AIR 2006 SC 3127.....	3, 5, 7
❖ <i>Laxmi v. State of Uttar Pradesh</i> , AIR 1968 SC 1323 .....	11
❖ <i>M Nagraj &amp; Ors. v. Union of India &amp; Ors.</i> , AIR 2007 SC 71.....	7
❖ <i>M.J Jacob v. A. Narayanan</i> , (2009) 14 SCC 318.....	9
❖ <i>Maneka Gandhi v. Union of India</i> , (1978) 1 SCC 248.....	10, 12
❖ <i>Maneklal Chhotalal v. M.G Makwana</i> .....	11
❖ <i>Manmohan Kalia v. Yash</i> , (1984) 3 SCC 499.....	9
❖ <i>Mazdoor Kisan Shakti Sanghatan v. Union of India</i> , 2018 SCC OnLine SC 724 .....	15
❖ <i>Mohan Lal Tripathi v. Distt Magistrate Rae Bareilly</i> , AIR 1993 SC 2042 .....	5
❖ <i>Mohinder Singh Gill &amp; Ors. v. The Chief Election Commissioner &amp; Ors.</i> , AIR 1978 SC 851 .....	4
❖ <i>Munn v. Illinois</i> , (1877) 94 US 113.....	13
❖ <i>N. P. Poonuswami v. Returning Officer, Namakkal Constituency</i> , AIR 1952 SC 64... 5	
❖ <i>NAACP v. Alabama</i> , 357 US 449 (1958).....	14
❖ <i>Narendra Kumar Chandla v. State of Haryana</i> , AIR 1995 SC 519.....	13
❖ <i>Naval Kishore Mishra v. High Court of Judicature at Allahabad</i> , AIR 2015 SC 13327	
❖ <i>Nikhil Soni v. Union of India</i> , 2015 SCC OnLine Raj 2042 .....	15
❖ <i>O.K. Ghosh v. Ex. Joseph</i> , AIR 1962 SC 812.....	14
❖ <i>Olga Tellis v. Bombay Municipal Corporation</i> , AIR1986 SC 180.....	13
❖ <i>P. Rathinam v. Union of India</i> , (1994) 3 SCC 394 .....	13
❖ <i>Patangrao Kadam v. Prithviraj Sayajirao Yadav Deshmukh</i> , (2001) 3 SCC 594.. 9, 11	
❖ <i>Pathumma v. State of Kerala</i> , AIR 1978 SC 771.....	11
❖ <i>People's Union for Civil Liberties v. Union of India</i> , (2013) 10 SCC 1 .....	5, 9

❖ <i>Pradeep Jain v. Union of India</i> , AIR 1984 SC 1420 .....	1
❖ <i>R. Srihari v. Union of India</i> , 2000 SCC OnLine AP 14. ....	15
❖ <i>R.P. Ltd. v. Indian Express</i> , AIR 1989 SC 190.....	12
❖ <i>Raja Ram Pal v. Hon'ble Speaker, Lok Sabha</i> , (2007) 3 SCC 184.....	1
❖ <i>Rajbala &amp; Ors. v. State of Haryana &amp; Ors.</i> , AIR 2016 SC 33.....	5
❖ <i>Rama Kant Pandey v. Union of India</i> , AIR 1993 SC 1766.....	5
❖ <i>Rameshwar Prasad v. Union of India</i> , AIR 2005 SC 4301 .....	1
❖ <i>Ranjit D.Udeshi v. State of Maharashtra</i> , AIR 1965 SC 881.....	10
❖ <i>Resurgence India v Election Commission of India</i> , (2014) 14 SCC 189.....	5
❖ <i>Romesh Thappar v. State of Madras</i> , (1950) SCR 594 (602).....	11
❖ <i>S.R. Bommai v. Union of India</i> , (1994) 3 SCC 1.....	1, 2, 3, 6
❖ <i>S.Subramaniam Balaji v. State of Tamil Nadu</i> , (2013) 9 SCC 659.....	9
❖ <i>Sajjan Singh v. State of Rajasthan</i> , AIR 1965 SC 845 .....	7
❖ <i>Samsher Singh v. State of Punjab</i> , AIR 1974 SC 2192 .....	1, 7
❖ <i>Santokh Singh v. Delhi Administration</i> , AIR 1973 SC 1901 .....	11
❖ <i>Satpal v. State of Punjab and Others</i> , AIR 1981 SC 2230.....	1
❖ <i>Secretary, Ministry of I. &amp; B. v. Cricket Association Bengal</i> , AIR 1995 SC 1236.....	11
❖ <i>Secretary, Ministry of Information and Broadcasting, Govt. of India v. Cricket Association of Bengal</i> , AIR 1995 SCC 1236. ....	12
❖ <i>Shri Luizinho Joaquim Faleiro vs The State Of Goa</i> , 2003 (2) Mah Lj 334. ....	5
❖ <i>Smt. Indira Nehru Gandhi v. Raj Narain</i> , AIR 1975 SC 2299 .....	4, 7
❖ <i>State Bank of India v. Santosh Gupta</i> , AIR 2017 SC 25 .....	1
❖ <i>State of Madras v. V.G. Row</i> , AIR 1952 SC 196 .....	11
❖ <i>State of Bihar v. K.K Mishra</i> , AIR 1971 SC 1667 .....	11
❖ <i>State of Karnataka v. Associated Management of English Medium Primary and Secondary Schools</i> , (2014) 9 SCC 485.....	11
❖ <i>State of Madras v. V.G. Row</i> , AIR 1952 SC 196 .....	11
❖ <i>Supreme Court Advocates on Record Association v. Union of India</i> , AIR 2016 SC 117 .....	7
❖ <i>Surinder Singh v. Hardial Singh</i> , (1985) 1 SCC 91 .....	9
❖ <i>Thampanoor Ravi v. Charupara Ravi &amp; Ors.</i> AIR 1999 SC 3309.....	5
❖ <i>Union of India v. Motion Picture Association</i> , (1999) 6 SCC 150. ....	10
❖ <i>Union of India v. Sankalchand Himatlal Sheth</i> , (1977) 4 SCC 193 .....	7

- ❖ *United Commercial Bank v. Dipak Debbarma*, (2017) 2 SCC 585. .... 2

## II. LEGISLATIONS AND INTERNATIONAL CONVENTIONS

S. No.	TITLE OF LEGISLATION AND LAW REPORTS
--------	--------------------------------------

- |    |  |
|----|--|
| 1. | THE CONSTITUTION OF BHARAT NADU, 1950                              |
| 2. | REPRESENTATION OF THE PEOPLE ACT, 1951                             |
| 3. | <i>UNIVERSAL DECLARATION OF HUMAN RIGHTS</i> , 1948                |
| 4. | <i>INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS</i> , 1996 |
| 5. | <i>EUROPEAN CONVENTION ON HUMAN RIGHTS</i> , 1950.                 |

## III. BOOKS AND COMMENTARIES

S. No.	AUTHOR	TITLE	VOL/ED. No.
1.	DURGA DAS BASU	<i>COMMENTARY ON THE CONSTITUTION OF INDIA: ARTICLE 19 (CONTD.)</i>	VOL. 4, 9 <sup>TH</sup> ED. 2015
2.	DURGA DAS BASU	<i>COMMENTARY ON THE CONSTITUTION OF INDIA: ARTICLE 15 TO 19 (CONTD.)</i>	VOL. 3, 9 <sup>TH</sup> ED. 2014



---

**3RD SURANA AND SURANA NATIONAL MOOT COURT COMPETITION, 2019**


---

3.	DURGA DAS BASU	<i>COMMENTARY ON THE CONSTITUTION OF INDIA: ARTICLE 19 (CONTD.)</i>	VOL. 4, 9 <sup>TH</sup> ED. 2015
4.	H. M. SEERVAI	<i>CONSTITUTIONAL LAW OF INDIA- A CRITICAL COMMENTARY</i>	VOL. 1, 4 <sup>TH</sup> ED. 2015
5.	M. P. JAIN	<i>INDIAN CONSTITUTIONAL LAW</i>	7 <sup>TH</sup> ED. 2014
6.	NARENDRA KUMAR	<i>CONSTITUTIONAL LAW OF INDIA</i>	9 <sup>TH</sup> ED. 2015
7.	SUBHASH C. KASHYAP	<i>PARLIAMENTARY PROCEDURE</i>	9 <sup>TH</sup> ED., REPRINT 2015
8.	V. N. SHUKLA,	<i>CONSTITUTION OF INDIA</i>	12 <sup>TH</sup> ED. 2013

#### IV. OTHER AUTHORITIES

S. No.	TITLE OF LEGISLATION AND LAW REPORTS
--------	--------------------------------------

- ❖ Constituent Assembly Debates, Vol. IX (Lok Sabha Secretariat, 1986), 3<sup>rd</sup> August 1949
- ❖ Jagdeep S Chhokar, Simultaneous polls idea naive Tribuneindia News Service (2018)
- ❖ Bhaskara Rao, Are simultaneous polls good for governance? Tribuneindia News Service (2018)
- ❖ Sawant, Keep The Polls Apart The Indian Express (2018)
- ❖ Neera Chandhoke, Defying the logic of democracy: on simultaneous polls The Hindu (2018)

- ❖ Law Commission of India, Draft Report Simultaneous Elections, 30 August 2018
- ❖ Bibek Debroy & Kishore Desai, *Analysis Of Simultaneous Elections : The “WHAT”, “WHY” AND “HOW”*.
- ❖ Constituent Assembly Debates, Vol. VIII (Lok Sabha Secretariat, 1986), 15th June 1949
- ❖ Model Code Of Conduct- Guidelines for Manifestos.
- ❖ Serving Farmers and Saving Farming; Towards Faster and More Inclusive Growth of Farmers’ Welfare – Fifth & Final Report, Volume I.
- ❖ Law Commission of India, *Electoral Reforms*, Report No. 255 (March 2015).

---

**STATEMENT OF JURISDICTION**

---

*THE PETITIONER AND THE RESPONDENT HAVE THE HONOUR TO SUBMIT THE FOLLOWING  
DISPUTE TO THE SUPREME COURT OF BHARAT NADU, PURSUANT TO ORIGINAL JURISDICTION  
UNDER ARTICLE 32 OF THE CONSTITUTION.*

***ARTICLE 32 Provides for remedies for enforcement of rights conferred by this Part-***

- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
- (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).
- (4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

***THE PRESENT MEMORANDUM SETS FORTH THE FACTS, CONTENTIONS AND ARGUMENTS IN  
THE INSTANT CASE.***

---

## STATEMENT OF FACTS

---

**BACKGROUND:** Bharath Nadu is a federal country with a multiparty system and a parliamentary form of government. The Country is facing political instability due to defections, corruptions, split in the political parties, etc and farmer's suicide is on the rise. A prison inmate wrote a letter to the Supreme Court of Bharat Nadu urging to bring reforms in the Electoral Laws to address the concerns including criminalization of politics, and unjustified burden on the exchequer due to multiple unsynchronized elections.

The Supreme Court constituted a committee which opined that the present Electoral Law is not in tune with the constitutional values and principles, hence there is an urgent need for reform.

**CHANGE:** BNJP, a party, after coming to power, initiated reforms in the Electoral Law. To bring the proposed reforms in the Electoral Law, the Parliament enacted the Constitution (104th Amendment) Act, 2019 inserting Article 172 (3). The Parliament also inserted Section 29D, Section 29E, Section 123 (9) and Section 168A in the Representation of the People Act, 1951.

**CHALLENGES:** The Constitution (104th Amendment) Act, 2019 was challenged for violating the Basic Structure. Section 123 (9) of the Act was challenged on the ground that it is violative of Article 19 (1) (a), section 29D of the Act on the ground that it violates Article 19 (1) (c) of the Constitution, Section 168A of the Act as violative of his freedom of conscience, section 123 (9) of the Act as violative of fundamental rights of the farmers. Nation Builder, an income taxpayers' association, welcomed Section 123 (9) of the Act was welcomed by Nation Builder, the respondent.

**ISSUES RAISED**

---

**ISSUE I**

**WHETHER THE CONSTITUTION (104<sup>TH</sup> AMENDMENT) ACT, 2019 IS INCONSISTENT WITH  
THE CONSTITUTIONAL PROVISIONS OF BHARAT NADU.**

---

**ISSUE II**

**WHETHER THE SECTION 123(9) OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 IS  
INCONSISTENT WITH THE PRINCIPLE OF THE CONSTITUTION.**

---

**ISSUE III**

**WHETHER THE SECTION 29D AND 168A OF THE REPRESENTATION OF THE PEOPLE ACT,  
1951 IS INCONSISTENT WITH THE PRINCIPLE OF THE CONSTITUTION.**

---

---

**SUMMARY OF ARGUMENTS**

---

**ISSUE I: WHETHER THE CONSTITUTION (104<sup>TH</sup> AMENDMENT) ACT, 2019 IS CONSISTENT WITH THE CONSTITUTIONAL PROVISIONS OF BHARAT NADU.**

It is humbly submitted before the Honourable Supreme Court on behalf of the petitioners that the Constitution (104<sup>th</sup> Amendment) Act, 2019 is inconsistent with the constitutional provisions of Bharat Nadu in so far as it, *firstly*, affects the federal structure of Bharat Nadu [1.1] and, *secondly*, affects the democratic structure of Bharat Nadu [1.2].

---

**ISSUE II: WHETHER SECTION 123(9) OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 IS INCONSISTENT WITH THE PRINCIPLE OF THE CONSTITUTION.**

It is humbly submitted before the Honourable Supreme Court on behalf of the petitioners that Section 123(9) of the RP Act, 1951 is inconsistent with the principle of the Constitution as *firstly*, Poll promises do not comprise corrupt practise [2.1], *secondly*, Sec. 123(9) violates freedom of speech and expression of the political parties [2.2] and *thirdly*, Sec. 123(9) violates the fundamental rights of the farmers [2.3].

---

**ISSUE III: WHETHER SECTIONS 29D, 29 E AND 168A OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 IS INCONSISTENT WITH THE PRINCIPLE OF THE CONSTITUTION.**

It is humbly submitted before the Honourable Supreme Court on behalf of the petitioners that Sections 29 D, 29 E and 168 A of the RP Act, 1951 is inconsistent with the principles of the Constitution as *firstly*, Sections 29D & E violate the right to freedom of association of the political parties[3.1] and *secondly*, Section 168 A violates the right to freedom of conscience of the members of the Parliament and the State Legislatures[3.2].

---

**BODY OF ARGUMENTS**

---

**ISSUE I; WHETHER THE CONSTITUTION (104<sup>TH</sup> AMENDMENT) ACT, 2019 IS CONSISTENT WITH THE CONSTITUTIONAL PROVISIONS OF BHARAT NADU.**

1. It is humbly submitted before the Honourable Supreme Court on behalf of the petitioners that the Constitution (104<sup>th</sup> Amendment) Act, 2019 is inconsistent with the constitutional provisions of Bharat Nadu in so far as it, *firstly*, affects the federal structure of Bharat Nadu [1.1] and *secondly*, affects the democratic structure of Bharat Nadu [1.2].

**1.1] THE CONSTITUTION (104<sup>TH</sup> AMENDMENT) ACT, 2019 AFFECTS THE FEDERAL STRUCTURE**

2. Even though Bharat Nadu has been held to be quasi-federal<sup>1</sup> in nature, it contains characteristics of the federal system like distribution of power, supremacy of constitution and independent judiciary<sup>2</sup>. The aim of federalism<sup>3</sup> has been stated to be to place the nation under the control of a National government and allowing the states to exercise their sovereign power within their legislative, executive and administrative sphere<sup>4</sup>. Consequentially, invasion by one level of government in the sphere of others is a breach of constitution. Dr. Ambedkar, while moving the draft of Art. 277A in Constituent Assembly, said that the provinces are as sovereign in their field as the centre is in the field allotted to it<sup>5</sup>. The federal

---

<sup>1</sup>S.R. Bommai v. Union of India, (1994) 3 SCC 1; Jindal Stainless Ltd. v. State of Haryana, AIR 2016 SC 5617; State Bank of India v. Santosh Gupta, AIR 2017 SC 25; Shamsher Singh v. State of Punjab, AIR 1974 SC 2192; Raja Ram Pal v. Hon'ble Speaker, Lok Sabha, (2007) 3 SCC 184.

<sup>2</sup>Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461; Satpal v. State of Punjab and Others, AIR 1981 SC 2230; Pradeep Jain v. Union of India, AIR 1984 SC 1420; Ganga Ram Moolchandani v. State of Rajasthan, AIR 2001 SC 2616; Imperial Tobacco Company Limited. v. Agricultural Produce Market Committee, AIR 2002 SC 852.

<sup>3</sup>Government of NCT of Delhi v. Union of India & Anr., (2018) 8 SCALE 72; Rameshwar Prasad v. Union of India, AIR 2005 SC 4301.

<sup>4</sup>S.R. Bommai v. Union of India, (1994) 3 SCC 1.

<sup>5</sup> Constituent Assembly Debates, Vol. IX (Lok Sabha Secretariat, 1986), 3<sup>rd</sup> August 1949 available

nature of the constitution and the need to maintain the envisaged federal balance to prevent the usurpation of power by states or centre has been noted<sup>6</sup>. It has been held that to uphold the spirit of “collaborative federalism”, the Union and the States should adopt a collaborative/cooperative federal architecture<sup>7</sup>. Nevertheless, it is not the theoretical label rendered to the Constitution, rather the practical implications of the provision which will help decide the question that has arisen<sup>8</sup>.

3. Synchronization of elections of state assembly using Article 172 (3) with legislative assembly goes against the spirit of federalism as it, *firstly*, intrudes in the domain of states [A] and *secondly*, puts national interests over state interests [B].

#### **A] THE ACT INTRUDES IN THE DOMAIN OF STATES OF BHARAT NADU**

4. Federalism strives to conciliate states with the Union without compromising their fundamental political integrity<sup>9</sup>. The autonomy and political integrity of states shall be affected as the article meddles with the tenure of state legislature and vests in Parliament the power to curtail or extend it according to its caprices.

5. As given under Art. 172 (1), state legislative assembly has a maximum duration of five years “unless sooner dissolved”. It can be extended only by a proclamation of emergency for a limited period. Curtailment is permitted under Constitution by the virtue of the phrase “unless sooner dissolved”, however, extension with the purpose of synchronisation of elections doesn’t come under the purview of Art.172 (1).

---

at:[http://cadindia.clpr.org.in/constitution\\_assembly\\_debates/volume/9/1949-08-03?paragraph\\_number=31#9.110.31](http://cadindia.clpr.org.in/constitution_assembly_debates/volume/9/1949-08-03?paragraph_number=31#9.110.31)

<sup>6</sup>*United Commercial Bank v. Dipak Debbarma*, (2017) 2 SCC 585.

<sup>7</sup>*Government of National Capital Territory of Delhi v. Union of India and Another*, (2018) 8 SCALE 72.

<sup>8</sup>*S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

<sup>9</sup>*S.R Bommai v. Union of India*, (1994) 3 SCC 1.



6. Art.172 (3) makes the tenure of state legislatures contingent on the tenure of House of People. It divests the states of having a popularly elected government. It purports to surreptitiously move it towards a unitary form of government<sup>10</sup>.

#### **B] THE ACT REDUCES THE IMPORTANCE OF STATES**

7. If the elections to the state assembly and the house of people are conducted in a synchronized manner, it shall have skewed outcomes. The importance of state issues in the national scheme of things will get reduced<sup>11</sup>. It will undermine the regional parties, local leaders and regional agendas<sup>12</sup>. Different reasons: local issues or international concerns, induce the voters to vote differently for their representatives in state assemblies and House of People. Due to simultaneous elections, the voters will get influenced to vote for the same party for both the houses, thereby warping true public opinion and skewing outcomes in the favour of national parties<sup>13</sup>. It shall increase the possibility of the country being ruled by only one political party or coalition partners higher. It will render the multiparty system and principle of pluralist democracy redundant, which have been held to be part of the basic structure.<sup>14</sup>

8. Synchronization of elections shall go against the principle of checks and balances. With unsynchronized elections, the country is perpetually in election mode. The pressure is constant, and people can show their dissent by making the prevailing party lose in a midterm

---

<sup>10</sup>Jagdeep S Chhokar, Simultaneous polls idea naive Tribuneindia News Service (2018), <https://www.tribuneindia.com/news/comment/simultaneous-polls-idea-naive/585371.html>.

<sup>11</sup>Jagdeep S Chhokar, Simultaneous polls idea naive Tribuneindia News Service (2018), <https://www.tribuneindia.com/news/comment/simultaneous-polls-idea-naive/585371.html>.

<sup>12</sup>Bhaskara Rao, Are simultaneous polls good for governance? Tribuneindia News Service (2018), <https://www.tribuneindia.com/news/comment/are-simultaneous-polls-good-for-governance/576674.html>.

<sup>13</sup>Sawant, Keep The Polls Apart The Indian Express (2018), <https://indianexpress.com/article/opinion/columns/india-lok-sabha-constitution-elections-voters-keep-the-polls-apart-5087305/>.

<sup>14</sup>*Kuldip Nayar v. Union of India (UOI) and Ors.*, AIR 2006SC 3127; *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

election, thereby increasing accountability<sup>15</sup>. Democracy is held to be a continual participative operation, and not a periodic exercise.<sup>16</sup>

9. In the light of the aforementioned arguments, it is humbly submitted by the Petitioners that in so far as The Act unjustifiably intrudes in the domain of states and undermines state issues in the national scheme of things, it runs opposite to the spirit of Federalism.

### **1.2] THE CONSTITUTION (104TH AMENDMENT) ACT, 2019 AFFECTS THE DEMOCRATIC STRUCTURE**

10. The Preamble to the Constitution of Bharat Nadu declares Bharat Nadu to be a democratic republic. Political party system<sup>17</sup> and political rights of citizens are an integral part of democracy. The will of the people<sup>18</sup> is of foremost importance and is expressed through pure and periodic<sup>19</sup>, free and fair<sup>20</sup> elections. Free and fair elections are the heart of parliamentary system.<sup>21</sup>

11. Synchronization of elections affects the democratic structure as it, *firstly*, hinders the process of conducting free and fair elections by infringing upon the freedom of speech and expression of voters under Art. 19 (1)(a) [A] and *secondly*, hinders the smooth functioning of democracy by giving rise to political instability [B].

### **A] SIMULTANEOUS ELECTIONS HINDERS THE PROCESS OF FREE AND FAIR ELECTIONS BY INFRINGING UPON THE FREEDOM OF SPEECH AND EXPRESSION OF VOTERS UNDER ARTICLE 19 (1)(A)**

---

<sup>15</sup>Neera Chandhoke, Defying the logic of democracy: on simultaneous polls The Hindu (2018), <https://www.thehindu.com/opinion/lead/defying-the-logic-of-democracy/article23795558.ece>.

<sup>16</sup>*Mohinder Singh Gill & Ors. v. The Chief Election Commissioner & Ors.*, AIR 1978 SC 851.

<sup>17</sup>*Dr. P. Nalla Thampy Terah vs Union Of India & Ors*, 1985 AIR 1133.

<sup>18</sup>*B.R. Kapoor vs State Of Tamil Nadu And Anr*, (2001) 7 SCC 231.

<sup>19</sup>*Chanda Singh v. Choudhary Shiv Ram Verma & Ors.*, AIR 1975 SC 403.

<sup>20</sup>*Smt. Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299.

<sup>21</sup>*Mohinder Singh Gill & Ors. v. The Chief Election Commissioner & Ors.*, AIR 1978 SC 851.

12. Right to vote, though fundamental to democracy, has been held to be merely a constitutional right and not a fundamental right<sup>22</sup>. However, the distinction between right to vote and the freedom to choose a candidate via the vote has been highlighted. Casting of vote in favour of a candidate amounts to expression of opinion of the voter and therefore, comes under the ambit of Article 19(1)(a).<sup>23</sup> Synchronized elections will affect the choice of the voters and therefore, true public opinion will not be reflected in the outcome<sup>24</sup>. The choice of electorate will shrink radically and voting pattern will get distorted as people will be prone to voting for the same party in the State legislatures and House of the People. A study published by IDFC institute, quoted by Niti Aayog in its report, concluded that there is a 77 per cent chance that a voter will vote for the same party for the State and Centre when elections are simultaneously held<sup>25</sup>. It has been held that one-sided information, disinformation, misinformation, all equally create an uninformed electorate. Casting of vote by a voter having one-sided information would gravely affect the democracy<sup>26</sup>.

13. Synchronization is detrimental to the representative nature of democracy which is an essential feature of the constitution<sup>27</sup> as national parties will overshadow local parties which would not be conducive to the multi-party system.

---

<sup>22</sup>*N. P. Poonuswami v. Returning Officer, Namakkal Constituency*, AIR 1952 SC 64; *Kabul Singh v. Kundan Singh & Ors.*, AIR 1970 SC 340; *Jyoti Basu & Ors. v. Debi Ghosal & Ors.*, AIR 1982 SC 983; *Rama Kant Pandey v. Union of India*, AIR 1993 SC 1766, *Mohan Lal Tripathi v. Distt Magistrate Rae Bareilly*, AIR 1993 SC 2042; *Thampanoor Ravi v. Charupara Ravi & Ors.* AIR 1999 SC 3309; and *People's Union for Civil Liberties v. Union of India*, AIR 2003 SC 2363; *Resurgence India v Election Commission of India*, (2014) 14 SCC 189.

<sup>23</sup>*Kuldip Nayar & Ors.v. Union of India & Ors.*, AIR 2006 SC 3127, *Rajbala & Ors. v. State of Haryana & Ors.*, AIR 2016 SC 33.

<sup>24</sup>Law Commission of India, Draft Report Simultaneous Elections, 30 August 2018 <https://barandbench.com/wp-content/uploads/2018/08/Law-Commission-Draft-Report-on-Simultaneous-Elections-watermark.pdf>.

<sup>25</sup>Bibek Debroy & Kishore Desai, *Analysis Of Simultaneous Elections : The "WHAT", "WHY" AND "HOW"*.

<sup>26</sup>*Krishnamoorthy. v. Sivakumar*, AIR 2015 SC 1921.

<sup>27</sup>*Shri Luizinho Joaquim Faleiro v The State Of Goa*, 2003 (2) MahLj 334.

**B] SIMULTANEOUS ELECTIONS WILL HINDER THE SMOOTH FUNCTIONING OF DEMOCRACY**

14. Curtailment of tenure for the reason of synchronization would infringe the five-year mandate given to the assembly by the citizenry by exercising their right to vote. An elected assembly has obligations towards the electorate<sup>28</sup>. Due to premature dissolution of the State Assemblies for the purpose of synchronization, it would not be provided with enough time to execute its undertakings made in the manifesto. Moreover, pending bills would lapse due to dissolution and might not be taken up by the new government. It would be impossible for the citizenry to assess the performance of the ruling party in such a short span of time.

15. The prerogative of dissolution of legislature to the executive is one of the principle features of parliamentary democracy. Article 172 (3) could be employed to synchronize elections for one-time purposes, however, coalition government has become a reality of contemporary India and therefore, various disruptions can ensue. As the current framework stands, there is no mechanism to prevent premature dissolution due to no-confidence motion, hung parliament or budgetary defeat. If it happens, President's rule can be imposed only in state assembly but for a maximum period of three years, subject to various limitations. The Union is left with only one recourse of having mid-term elections. This shall go against the idea of synchronization of elections, but it cannot be avoided. The new government's term might have to be curtailed to just one, two or three years in order to make it coterminous with the other assemblies. This will be highly impractical for it will result in misspending of public wealth, political instability and constitutional crisis. Frequent dissolution of legislature and fresh elections, in addition to having financial drawbacks, frustrates the people with the process of elections and thus, with democracy<sup>29</sup>.

---

<sup>28</sup> *Government of NCT of Delhi v. Union of India & Anr.*, (2018) 8 SCALE 72.

<sup>29</sup> *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

16. While the Constituent Assembly was discussing on feasibility of a multi-member permanent Election Commission, Prof. Shibban Lal Saksena said that our Constitution does not provide for a fixed four-year election cycle like United States. The Elections will not synchronize and will be held at different times in accordance with the dissolution of Legislatures due to vote of no-confidence<sup>30</sup>.

17. Considering all the above-stated contentions, the Petitioners find it felicitous to conclude that the Democratic framework of the constitution of Bharat Nadu gets duntrodden by the Act in so far as it affects the freedom of speech and expression of voters and hinders the smooth functioning of democracy.

18. Basic Structure includes under its ambit Supremacy of Constitution, Democratic form of government, Federal character of the Constitution and Unity and Integrity of the nation<sup>31</sup>. The Preamble, which states Bharat Nadu to be a Democratic Republic, has been held to be an epitome of basic features of the Constitution<sup>32</sup>. Free and fair elections<sup>33</sup> and multi-party system<sup>34</sup> are essential for parliamentary democracy and constitute the basic structure. Parliament cannot exercise its power of amendment under Art.368 to destroy the essential features of the basic structure of the Constitution or change the identity of the constitution<sup>35</sup>.

19. Therefore, it is a humble submission of the Petitioners that in so far as The Constitution (104<sup>th</sup> Amendment) Act, 2019 is inconsistent with the constitutional provisions of Bharat

---

<sup>30</sup>Constituent Assembly Debates, Vol. VIII (Lok Sabha Secretariat, 1986), 15th June 1949 available at: <[http://eci.nic.in/eci\\_main/eci\\_publications/books/miscell/Debate\\_in\\_Constituent\\_Assembly\\_On\\_Elections.pdf](http://eci.nic.in/eci_main/eci_publications/books/miscell/Debate_in_Constituent_Assembly_On_Elections.pdf)>.

<sup>31</sup> *Kesavananda Bharati & Ors. v. State of Kerala & Anr.*, AIR 1973 SC 1461; *M Nagraj & Ors. v. Union of India & Ors.*, AIR 2007 SC 71; *Samsher Singh v. State of Punjab*, AIR 1974 SC 2192; *Union of India v. Sankalchand Himatlal Sheth*, (1977) 4 SCC 193; *Naval Kishore Mishra v. High Court of Judicature at Allahabad*, AIR 2015 SC 1332; *Kihoto Hollohan v. Zachilhu*, AIR 1993 SC 412.

<sup>32</sup>*Sajjan Singh v. State of Rajasthan*, AIR 1965 SC 845.

<sup>33</sup>*Smt. Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299; *Kihoto Hollohan v. Zachilhu*, AIR 1993 SC 412.

<sup>34</sup>*Kuldip Nayar v. Union of India (UOI) and Ors.*, AIR 2006SC 3127.

<sup>35</sup>*I.R. Coelho (dead) by L.R.s v. State of Tamil Nadu*, AIR 2007 SC 861; *Supreme Court Advocates on Record Association v. Union of India*, AIR 2016 SC 117.

Nadu, The Court may hold it in violation of the Basic Structure of the Constitution, lest it should become a fora to derogate the rights of its subjects.

**ISSUE II; WHETHER SECTION 123(9) OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 IS INCOSISTENCE WITH THE PRINCIPLE OF THE CONSTITUTION.**

**2.1] PROMISES MADE BY A POLITICAL PARTY OF ANY GAINFUL BENEFITS IN THEIR MANIFESTO DO NOT CONSTITUTE A CORRUPT PRACTICE UNDER SEC. 123 OF RP ACT, 1951.**

**A] CORRUPT PRACTICES TO BE PROVEN BEYOND REASONABLE DOUBT.**

20. It is humbly submitted that this Hon'ble court has held that the purpose of Sec. 123 of the RP Act is to ensure free and fair elections<sup>36</sup> to guarantee the growth of democracy in the country.<sup>37</sup> Furthermore, Sec. 123 should be strictly construed because of the penal nature of the statute and it has been previously held by this Hon'ble court that the standard of proof required in proving an allegation of corrupt practice is proof beyond reasonable doubt, as is the onus in criminal cases.<sup>38</sup>

**B] PROMISE IN THE ELECTION MANIFESTO DOES NOT AMOUNT TO CORRUPT PRACTICE.**

21. The manifesto of a political party is the statement of its policy and can be considered as the promise of a future government.<sup>39</sup> Farm loan waivers further the idea of a socialist<sup>40</sup> state as mentioned in the Preamble of the Constitution. Democratic Socialism aims to end poverty and inequality of opportunity<sup>41</sup> and hence should be implemented in the true spirit of the Constitution<sup>42</sup> to establish an egalitarian social order and attain social, economic and political equality among the citizens.<sup>43</sup>

<sup>36</sup>*S.Subramaniam Balaji v. State of Tamil Nadu*, (2013) 9 SCC 659; *Patangrao Kadam v. Prithviraj Sayajirao Yadav Deshmukh*, (2001) 3 SCC 594.

<sup>37</sup>*People's Union for Civil Liberties v. Union of India*, (2013) 10 SCC 1.

<sup>38</sup>*M.J Jacob v. A. Narayanan*, (2009) 14 SCC 318; *Manmohan Kalia v. Yash*, (1984) 3 SCC 499; *Surinder Singh v. Hardial Singh*, (1985) 1 SCC 91; *Baldev Singh Mann v. Surjit Singh Dhiman*, (2009) 1 SCC 633.

<sup>39</sup>*S.Subramaniam Balaji v. State of Tamil Nadu*, (2013) 9 SCC 659.

<sup>40</sup>*D.S Nakara v. Union of India*, AIR 1983 SC 130.

<sup>41</sup> M.P. Jain, *Indian Constitutional Law* (7<sup>th</sup> ed. Lexis Nexis 2015).

<sup>42</sup>*G.B Pant University of Agriculture & Technology v. State of Uttar Pradesh*, (2000) 7 SCC 109.

<sup>43</sup> M.P. Jain, *Indian Constitutional Law* (7<sup>th</sup> ed. Lexis Nexis 2015).

22. Additionally, the guidelines<sup>44</sup> drawn by the EC regarding election manifestos allows for the inclusion of welfare measures furthering the DPSPs enshrined in the constitution. The guidelines also require the political parties to not only include in their manifesto the *rationale for the promises* but also indicate ways to meet the *financial requirements* for the same.

23. It is humbly submitted before the Hon'ble court that the promise of loan waivers made by a political party in its election manifesto does not amount to a corrupt practice as it aims at promoting the welfare of the farmers and there already exists a mechanism to regulate any provisions which are inconsistent with the principles enshrined in the Constitution.

## **2.2] SEC. 123(9) IS IN VIOLATION OF THE ART.19(1)(A) OF THE POLITICAL PARTIES**

### **A] ART. 19(1)(A) IS AVAILABLE TO THE POLITICAL PARTIES.**

24. It is humbly submitted before this Hon'ble court that the right to freedom of *speech and expression* is the bulwark<sup>45</sup> and the foundation<sup>46</sup> of the democratic form of government<sup>47</sup> meant for the expression of *free opinions to change political or social conditions*.<sup>48</sup> Part IV A, Art. 29A of the RP Act, 1951 allows for the registration of an association of individual citizens of India as a political party and as such entitles it to the rights guaranteed under Art. 19 of the constitution of India<sup>49</sup> and a restriction imposed on them would directly affect the fundamental rights of their members.<sup>50</sup>

### **B] SEC. 123(9) IS IN VIOLATION OF ART. 19(1)(A) OF THE POLITICAL PARTIES.**

25. The word "*freedom*" in Art. 19 of the Constitution means absence of control by the State and in all matters specified in Art 19(1), the citizen has the liberty to choose, subject

---

<sup>44</sup> ECI, Instructions Regarding Election Manifestos.

<sup>45</sup> M.P. Jain, *Indian Constitutional Law* (7<sup>th</sup> ed. Lexis Nexis 2015).

<sup>46</sup> *Union of India v. Motion Picture Association*, (1999) 6 SCC 150.

<sup>47</sup> *Maneka Gandhi v. Union of India*, AIR 1978.

<sup>48</sup> *Ranjit D. Udeshi v. State of Maharashtra*, AIR 1965 SC 881.

<sup>49</sup> *Dharam Dutt v. Union of India*, AIR 2004 SC 1295.

<sup>50</sup> *Romesh Thappar v. State of Madras*, AIR 1950 SC 124.



only to the restrictions in Arts. 19(2) to (6).<sup>51</sup> Freedom of speech and expression is indispensable for the unrestricted exchange of ideas which is necessary for a democracy<sup>52</sup> and in turn lays down the foundation of all democratic organizations.<sup>53</sup> The freedom of expression also allows for free political discourse<sup>54</sup> which is of the greatest importance in a Democracy. The country of Bharat Nadu is being plagued with the farmer suicides,<sup>55</sup> which brings to light the problems being faced by the general population of the country. It therefore becomes imperative for the political parties to communicate with the citizens of the country the probable policies for their welfare, which in turn would enable them to form the government and implement the same.

**CJ SEC. 123(9) DOES NOT AMOUNT TO A REASONABLE RESTRICTION UNDER ART.19(2).**

26. The limitations which are imposed on the fundamental rights of the citizens of the country should not be arbitrary, of excessive nature or beyond what is required in public interest<sup>56</sup> and there can be no abstract standard or general pattern of reasonableness.<sup>57</sup> The Courts however have laid down some broad components which are considered for adjudging reasonableness of a restriction<sup>58</sup> and the constitutional provisions need to be interpreted in accordance to the present day problems and needs of the country.<sup>59</sup>

27. It is humbly submitted before the Hon'ble court that Sec 123(9) of the RP Act violates the freedom of speech and expression of the political parties by regulating their election manifestos and declaring the promises made by them for the welfare of the citizens of the

---

<sup>51</sup> *State of Karnataka v. Associated Management of English Medium Primary and Secondary Schools*, (2014) 9 SCC 485

<sup>52</sup> Durga Das Basu, *Commentary on the Constitution of India* (9<sup>th</sup> ed. Lexis Nexis 2015).

<sup>53</sup> *Romesh Thappar v. State of Madras*, (1950) SCR 594 (602).

<sup>54</sup> *Secretary, Ministry of I. & B. v. Cricket Association Bengal*, AIR 1995 SC 1236.

<sup>55</sup> Para 1 of the proposition

<sup>56</sup> *Bishambhar Dayal Chandra Mohan v. State of Uttar Pradesh*, (1982) 1 SCC 39.

<sup>57</sup> *Santokh Singh v. Delhi Administration*, AIR 1973 SC 1901; *State of Madras v. V.G. Row*, AIR 1952 SC 196.

<sup>58</sup> *Chitaman Rao v. State of Madhya Pradesh*, AIR 1951 SC 118; *State of Madras v. V.G. Row*, AIR 1952 SC 196; *Maneklal Chhotalal v. M.G Makwana*, AIR 1967 SC 1373; *State of Bihar v. K.K Mishra*, AIR 1971 SC 1667; *Laxmi v. State of Uttar Pradesh*, AIR 1968 SC 1323; *Harakchand v. Union of India*, AIR 1970 SC 1453; *Krishnan Kakkant v. Govt. of Kerala*, AIR 1997 SC 128.

<sup>59</sup> *Pathumma v. State of Kerala*, AIR 1978 SC 771.

country as a corrupt practice. Furthermore the restrictions imposed by this section are unreasonable and not justifiable under Art. 19(2) thus denying the political parties their right to freedom of speech and expression.

**2.3] SEC. 123(9) IS IN VIOLATION OF FUNDAMENTAL RIGHTS OF THE FARMERS GUARANTEED UNDER ARTICLES 19(1)(A) AND 21 OF THE CONSTITUTION.**

**A] ART. 19(1) INCLUDES THE RIGHT TO RECEIVE INFORMATION.**

28. It is humbly submitted that the right to freedom of speech and expression guaranteed under Art. 19(1)(a) includes the right to receive information.<sup>60</sup> The citizens have a right to know about the policies of the government aimed at their welfare<sup>61</sup> in order to take part in participatory development of the democracy.<sup>62</sup> It is further submitted that democracy can only sustain if the voters are given an opportunity to make informed decisions<sup>63</sup> and it becomes imperative for the farmer community to have the knowledge of the welfare schemes which the different political parties plan to implement for their advantage in order for them to cast an informed vote and strengthen the democratic structure of the country.

**B] SEC. 123(9) VIOLATES THE RIGHT TO LIFE OF THE FARMERS.**

29. The right to *life and personal liberty* guaranteed by Art. 21 of the Constitution has become an inexhaustible source of many other rights<sup>64</sup> due to its progressive nature. The right to life guaranteed under Art. 21 embraces not only the physical existence of an individual but also a quality of life<sup>65</sup> and a right to live with human dignity<sup>66</sup> which takes within its folds the

---

<sup>60</sup>*Indian Soaps and Toiletries Makers Association v. Ozair Husain*, (2013) 3 SCC 641; *Chief Information Commissioner v. State of Manipur*, AIR 2012 SC 864; *ICAI v. Shanuk H. Satya*, (2011) 8 SCC 781; *Secretary, Ministry of Information and Broadcasting, Govt. of India v. Cricket Association of Bengal*, AIR 1995 SCC 1236.

<sup>61</sup>*Dinesh Trivedi v. Union of India*, (1997) 4 SCC 306.

<sup>62</sup>*R.P. Ltd. v. Indian Express*, AIR 1989 SC 190.

<sup>63</sup>*Association for Democratic Reforms v. Union of India*, AIR 2001 Del 126.

<sup>64</sup>*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

<sup>65</sup>M.P. Jain, *Indian Constitutional Law* (7<sup>th</sup> ed. Lexis Nexis 2015).

<sup>66</sup>*Francis Coralie v. Delhi*, AIR 1981 SC 746.

*fine graces civilization* and make an individual's life worth living.<sup>67</sup> The right to live with human dignity<sup>68</sup>, derived from the DPSPs enshrined in articles 39 and 41, includes the protection of health and strength of the workers.<sup>69</sup> Furthermore, *right to livelihood* is included in the right to life<sup>70</sup> which in turn encompasses the right of agriculturalists to cultivation.<sup>71</sup>

30. It is humbly submitted that the country of Bharat Nadu is facing an increasing number of farmer suicides and restricting the political parties from announcing loan waivers, which are a recommended measure<sup>72</sup> to curb farmer suicides directly infringes with their right to life guaranteed under Art.21 of the Constitution.

---

<sup>67</sup>*P. Rathinam v. Union of India*, (1994) 3 SCC 394; *Olga Tellis v. Bombay Municipal Corporation*, AIR1986 SC 180.

<sup>68</sup>*Munn v. Illinois*, (1877) 94 US 113; *Kharak Singh v. State of U.P.*, AIR 1963 SC 1295.

<sup>69</sup>*Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

<sup>70</sup>*Olga Tellis v. Bombay Municipal Corporation*, AIR1986 SC 180; *Narendra Kumar Chandla v. State of Haryana*, AIR 1995 SC 519.

<sup>71</sup>*Dalmia Cement (Bharat) Ltd. v. Union of India*, (1996) 10 SCC 104; *Charan Singh v. State of Punjab*, (1997) 1 SCC 151.

<sup>72</sup>Serving Farmers and Saving Farming; Towards Faster and More Inclusive Growth of Farmers' Welfare – Fifth & Final Report, Volume I.

**ISSUE III; WHETHER SECTION 29D AND 168A OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 IS INCONSISTENT WITH THE PRINCIPLE OF THE CONSTITUTION.**

**3.1] SECS. 29 D & E VIOLATE ARTICLE 19(1)(C) OF THE POLITICAL PARTIES**

31. It is humbly submitted that Section 29D of the RP Act, 1951

**A] SECS. 29 D & E APPLY SUBSTANTIAL RESTRAINT UPON THE POLITICAL PARTIES.**

32. Art. 19(1)(c) of the Constitution provides to all the citizens of Bharat Nadu the right *to form associations or unions*, a right that has been recognized by various international charters.<sup>73</sup> The right to freedom of association includes the right of privacy in one's association<sup>74</sup> and any law which compels an association to disclose the details of its membership amounts to *substantial restraint*<sup>75</sup> upon its freedom. Furthermore, the freedom of association is essential for democracy for political purposes as it is the greatest bulwark against power in any form<sup>76</sup> and provisions of law which impose restrictions on the organization and composition of the structures of governing parties have been held to be void.<sup>77</sup>

**B] SECS. 29 D & E VIOLATE THE INTERNAL AUTONOMY OF THE POLITICAL PARTIES.**

33. The internal democracy of a party is referred to by the theory of substantive democracy<sup>78</sup>. The right guaranteed by Art. 19(c) of the Constitution implies the freedom to form an association of any lawful purpose.<sup>79</sup> Therefore any action of the state to restrict the normal functioning of an association amounts to a restriction.<sup>80</sup> It is further submitted that rights guaranteed by Art. 19(1)(c) of the Constitution are not confined to the initial stage of

<sup>73</sup> Art. 20, *Universal Declaration of Human Rights*, 1948; Art.22, *International Covenant on Civil and Political Rights*, 1996; Art.11, *European Convention on Human Rights*, 1950.

<sup>74</sup> *American Communications v. Douds*, (1950) 339 US 382(383).

<sup>75</sup> *NAACP v. Alabama*, 357 US 449 (1958).

<sup>76</sup> *Durga Das Basu, Commentary on the Constitution of India* (9<sup>th</sup> ed. Lexis Nexis 2015).

<sup>77</sup> *EU v. San Francisco County Democratic Central Committee*, (1989) 489 US 214.

<sup>78</sup> Law Commission of India, *Electoral Reforms*, Report No. 255 (March 2015).

<sup>79</sup> *All India Bank Employees' Assocn.v. N.I. Tribunal*, AIR 1962 SC 171.

<sup>80</sup> *O.K. Ghosh v. Ex. Joseph*, AIR 1962 SC 812.

formation of an association and includes within its ambit the right of the association to continue with its composition as was agreed by the individuals who formed the association.<sup>81</sup>

It is humbly submitted that in the present scenario the enactment of Secs. 29 D & E of the RP Act infringe upon the internal democracy of the political parties in as much that they bring the hierarchal structure of the political parties under the purview of the Election Commission and violate the fundamental right to the freedom of association guaranteed by the Constitution of Bharat Nadu.

### **3.2] SECTION 168 A OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 VIOLATES THE FREEDOM OF CONSCIENCE**

34. It is humbly submitted before the Hon'ble court that Sec. 168 A of the RP Act, 1951 restricts the right to dissent as well as the freedom of conscience of the members of the Parliament and the Legislative Assemblies. Right to dissent is a fundamental tenet of a parliamentary democracy<sup>82</sup>.

35. Bharat Nadu has a representative form of democracy.<sup>83</sup> The Preamble of the Constitution speaks of liberty of thought, expression, belief, faith and worship. The imposition of section 168A deprives the representatives of the citizenry from exercising their freedom of consciousness and freedom to hold opinions. It has been held that freedom of conscience should not necessarily be affiliated to any faith in God. It entails a sense of right or wrong and principles based on ethics and morality.<sup>84</sup> Therefore, freedom of consciousness should be deemed akin to one's political morality. It runs au contraire to the very principle of parliamentary democracy as it purports to punish the representatives for exercising their rights and freedoms.

---

<sup>81</sup>*Damayanti Naranga v. Union of India*, (1971) 1 SCC 678.

<sup>82</sup>*Mazdoor Kisan Shakti Sanghatan v. Union of India*, 2018 SCC OnLine SC 724.

<sup>83</sup>*R. Srihari v. Union of India*, 2000 SCC OnLine AP 14.

<sup>84</sup>*Nikhil Soni v. Union of India*, 2015 SCC OnLine Raj 2042.

**PRAYER**

---

*Wherefore, in the lights of the Issues raised, Authorities cited and Arguments advanced, it is most humbly and respectfully requested that the Hon'ble Supreme Court of India be pleased to declare that:*

1. Issue a writ of *Mandamus* or any other appropriate writ.
2. The Constitution (104<sup>th</sup> Amendment) Act, 2019 Is Inconsistent With The Constitutional Provisions Of Bharat Nadu.
3. Section 123(9) Of The Representation Of The People Act, 1951 Is Inconsistent With The Principle Of The Constitution.
4. Sections 29D, 29E And 168A Of The Representation Of The People Act, 1951 are Inconsistent With The Principle Of The Constitution.

**AND/OR**

PASS ANY ORDER, DIRECTION, OR RELIEF THAT IT MAY DEEM FIT IN THE BEST INTERESTS OF  
JUSTICE, FAIRNESS, EQUITY AND GOOD CONSCIENCE.

*FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL DUTY BOUND FOREVER PRAY.*

**Date:.....2019**

**S/d**

**Place; Supreme Court of Bharat Nadu**

**Counsels for Petitioner**