



## United National Congress Party and Others

Vs.

## Union of Bharath Nadu and Others

1. Bharath Nadu is a federal country with a multiparty system and has adopted parliamentary form of government. The Country is technologically growing faster and is a favourite destination for many developed countries for investment. Though the literacy rate is less than world average, 75 percent of the people have access to internet and cell phones. On the other hand, farmer's suicide is on the rise and has become a national ignominy. From the last two decades, the Country is facing political instability due to defections, corruptions, split in the political parties, etc. Many political scientists, economists, jurists, and international organizations have opined in the recent times that Bharath Nadu is a country with highest potential to become a world leader provided it effectively addresses its political crises.
2. On reading a newspaper editorial about the political instability and factors responsible for the same and on understanding several of such limitations that plague the system, a prison inmate wrote a letter to the Supreme Court of Bharath Nadu expressing that the law of the land that permits the accused to contest elections from the prison but prohibits the inmate of a prison from exercising his franchise is unfair. He sought the direction to the Union of Bharath Nadu to bring reforms in the Electoral Law to address the concerns including criminalization of politics, and unjustified burden on the exchequer due to multiple unsynchronized elections.
3. The Supreme Court of Bharath Nadu, though expressed the constitutional limitations on its powers, nevertheless stressed on the need for reforms in the Electoral Law. It constituted a committee under the chairmanship of former Justice Radhakrishnan (hereinafter referred to as "The Committee") to review the Electoral Law and submit a report to the Court. In its report, the Committee opined that the present Electoral Law is not in tune with the constitutional values and principles, hence there is an urgent need for reform and *inter-alia* the Committee suggested following broad objectives for reform in the Electoral Law:
  - To reduce the burden on the exchequer by synchronizing the elections to the State Assemblies with the Parliamentary elections.
  - To curb the ill practices of making enticing promises in party manifestos like giving of freebies and loan waivers.
  - To make political parties more accountable and promote internal democracy within the political parties.

4. On 1<sup>st</sup> November 2018, the Supreme Court of Bharath Nadu sent the Committee's report to the Union Government, State Governments, and all the political parties for their consideration.
5. Meanwhile, parliamentary elections were declared in Bharath Nadu and the Bharath Nadu Janata Party (BNJP) promised in its manifesto that if it comes to power, it will bring reforms in the Electoral Law in line with the recommendations of Radhakrishnan Committee.
6. In the parliamentary election, BNJP came to power with a thumping majority and initiated reforms in the Electoral Law. It initiated an online referendum seeking the opinion of the people on the proposed reforms in the Electoral Law and got huge response in its favour and published it on print and digital media.
7. To bring the proposed reforms in the Electoral Law, the Parliament enacted the Constitution (104th Amendment) Act, 2019 inserting the following provision: -
  1. **Article 172 (3)**: The Parliament may extend or curtail the term of any of the state assemblies for a period it deems necessary, strictly for the purpose of synchronization of elections to the legislative assemblies of the states with the Lower House of the Parliament.
8. Further, the Parliament inserted the following provisions in the Representation of the People Act, 1951 (hereinafter referred to as "The Act"):
  1. **Section 29D**: Leadership of a political party shall, at all levels, be duly elected by the members of the political party.
  2. **Section 29E**: The supervision of the elections to all the leadership positions of a political party shall be vested in the Election Commission.
  3. **Section 123 (9)**: Promise by a political party of any gainful benefits like freebies, loan waivers, etc., in its election manifesto solely with a view to secure votes.
  4. **Section 168A**: Any Member of Parliament or Legislative Assembly who resigns from his office and intends to contest election from another party before completion of the term shall be liable to pay an exemplary cost as may be determined by the Election Commission.
9. The United National Congress Party (UNCP) challenged the 104<sup>th</sup> Constitutional Amendment as violative of the basic structure of the Constitution of Bharath Nadu. Further, it challenged **Section 123 (9)** of the Act on the ground that it is violative of Article 19 (1) (a).
10. The Bharath Nadu Youth Party (BNYP) challenged the constitutional validity of **Section 29D** of the Act on the ground that it violates Article 19 (1) (c) of the Constitution.

11. Mr. Belliyappa who is known for shifting sides for political benefits and to become a member of the cabinet in successive governments challenged **Section 168A** of the Act as violative of his freedom of conscience.
12. Raith Mitra, a farmers' association is a crucial game changer in the Assembly Elections of Karunadu State. It is successful in getting farm loan waived from every government in Karunadu State. The Association challenged **Section 123 (9)** of the Act as anti-farmer and violative of fundamental rights of the farmers.
13. Nation Builder, an income taxpayers' association, welcomed **Section 123 (9)** of the Act and filed an intervening application supporting the Union of Bharath Nadu. It was submitted that the idea of farm loan waiver is economically and legally ill-founded though sociologically there may be differences. In its support, they cited an empirical research that revealed the misuse of farm loan waiver schemes by different governments failing to abate the farmer suicide. Its application was allowed and it was arraigned as respondent.
14. Supreme Court admitted all the petitions and clubbed them together for a common hearing. The matter is posted for final hearing on 30<sup>th</sup> and 31<sup>st</sup> March 2019.

**Note:** Laws and Constitution of Bharath Nadu are similar to India. Supreme Court of Bharath Nadu considers the precedents of Supreme Court of India as binding.