

# **Legal Background – Swacch Bharat Sansad**

The PIL has been filed by Ashwini Kumar Upadhyay, lawyer and a BJP member. The plea seeks to set up special courts for speedy disposal of matters related to legislators and to further bar them from contesting elections for life.

Under the current Representation of People's Act, 1951, a person may contest elections after six years after having served the jail term.

*The Supreme Court was also informed that 1581 such cases against MLAs/MPs were registered by the year 2014, as declared by politicians at the time of filing their nominations during the 2014 general elections.*

1. Under the current law, a legislator is debarred for six years from contesting elections once he is convicted for heinous or moral offences.
2. Centre has vehemently opposed the suggestion of the EC to bar the legislators for life, who have been convicted of criminal offences.
3. The Election Commission (EC) and Law Commissions recommends a life time ban on politicians convicted in criminal cases.
4. Law to stop criminalization of Indian polity is required to be formed by the Parliament.

<https://www.indiatoday.in/india/story/sc-special-court-criminal-politicians-fast-track-courts-1077911-2017-11-01>

On Nov.1, 2017, The Supreme Court directed the Centre on Wednesday to place before it details regarding 1,581 cases involving MPs and MLAs, as declared by politicians at the time of filing their nominations during the 2014 general elections.

The bench directed the Centre to place before it the scheme for setting up of such special courts and also indicate the amount of funds that could be earmarked for the purpose.

The apex court asked the government to place these details before it within six weeks and fixed the matter for hearing on December 14.

## **December 14, 2017 –**

In this hearing, the Supreme court directed the state governments and respective high courts to set up 12 special courts that would only deal with expediting the cases related to legislators and politicians holding power positions in the country. The court directed these courts to be functional from March 1, 2018.

The court will now monitor further progress in setting up of these courts on March 7, 2018.

The government had, acting under a court order of November 1, 2017, earmarked an amount of Rs 7.8 crore for the scheme. It had said by way of an affidavit that Rs 65 lakh would be spent on each court which would then be able to dispose of 165 cases.

Read more at:

[https://economictimes.indiatimes.com/news/politics-and-nation/special-courts-to-try-lawmakers-allocate-funds-supreme-court-tellsgovernment/articleshow/62067780.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/politics-and-nation/special-courts-to-try-lawmakers-allocate-funds-supreme-court-tellsgovernment/articleshow/62067780.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

## **June 04,2018 –**

The Centre released a fresh tranche of funds for 11 states to run special courts to try the over 1,500 cases related to lawmakers. The Department of Justice in the Law Ministry has released an instalment of Rs 1.79 crore for the 12 special courts being run to try cases related to MPs and MLAs.

It will cost the government nearly Rs 8 crore annually to run these 12 special courts. Subsequent instalments would be released only after the states provide utilization certificates to the department of justice, sources in the government said.

Read More on:

<https://zeenews.india.com/india/government-released-funds-for-special-courts-for-cases-against-mps-and-mlas-2113755.html>

## September 11, 2018 –

Update by the Union Ministry of Law and Justice to SC – The submitted affidavit by the Union Ministry of Law and Justice mentioned that A total of 1,233 criminal cases were transferred to the special committed courts for expediting the cases of the politicians. Of these, only 136 cases could be disposed of and remaining 1067 cases were pending.

The affidavit comes in response to a Supreme Court order to the Centre to collect and file the data on the number of special courts set up across the country to exclusively try MPs/MLAs, the cases transferred to these special courts, how many pending or disposed of, etc.

Read more at:

<https://www.thehindu.com/news/national/12-special-courts-set-up-to-try-mps-mlas-centre-tells-sc/article24929042.ece>

## October 10, 2018 –

- MP/MLA के आपराधिक मामलों के लिए स्पेशल फास्ट ट्रैक कोर्ट का मामले में सुप्रीम कोर्ट ने केंद्र सरकार से कहा कि 11 स्पेशल फास्ट ट्रैक काफी नहीं हैं. कोर्ट ने केंद्र को कहा कि वो तमाम राज्य सरकारों को और फंड मुहैया कराए ताकि अन्य राज्यों में भी फास्ट ट्रैक कोर्ट की संख्या और बढ़ाई जा सके.

Read More on:

<https://khabar.ndtv.com/news/india/supreme-court-tells-centre-special-fast-track-court-is-not-enough-for-criminal-cases-against-mp-mla-1929765>

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## December 04, 2018 –

- There are 4,122 criminal cases pending, some for over three decades, against sitting and **former members of Parliament and legislative assemblies**, the Supreme Court was told Tuesday.

Read more at:

[https://economictimes.indiatimes.com/news/politics-and-nation/over-4000-criminal-cases-pending-against-sitting-and-former-mps-mlas-sc-told/articleshow/66940130.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/politics-and-nation/over-4000-criminal-cases-pending-against-sitting-and-former-mps-mlas-sc-told/articleshow/66940130.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

**Elections for 17<sup>th</sup> LOK SABHA held in April-June 2019 – Results declared on 23<sup>rd</sup> June 2019**

## May 25, 2019 –

### **HIGHLIGHTS**

- The 17th Lok Sabha will have close to half of its new MPs with declared criminal cases
- Out of the 539 winners analyzed in Lok Sabha election 2019, 233 MPs have declared criminal cases against themselves
- It is an increase of 44 per cent in the number of MPs with declared criminal cases since 2009

<https://www.indiatoday.in/elections/lok-sabha-2019/story/50-per-cent-mps-new-lok-sabha-criminal-records-1534465-2019-05-25>

**May 26, 2019 –**

## 43% newly-elected Lok Sabha MPs have criminal record: ADR

Nearly half of the newly-elected Lok Sabha members have criminal charges against them, a 26% increase as compared to 2014, according to the Association of Democratic Reforms (ADR).

The BJP has 116 MPs or 39% of its winning candidates with criminal cases, followed by 29 MPs (57%) from the Congress, the Association of Democratic Reforms said.

Read More on:

<https://www.thehindu.com/elections/lok-sabha-2019/43-newly-elected-lok-sabha-mps-have-criminal-record-adr/article27253649.ece>

**Jan 28, 2020 –**

The Supreme Court has taken a timely decision by agreeing to hear a [plea from the Election Commission of India](#) (ECI) to direct political parties to not field candidates with criminal antecedents. The immediate provocation is the finding that 46% of Members of Parliament have criminal records. While the number might be inflated as many politicians tend to be charged with relatively minor offences —“unlawful assembly” and “defamation” — the real worry is that the current cohort of Lok Sabha MPs has the highest (29%) proportion of those with serious declared [criminal cases](#) compared to its recent predecessors.

Read More on:

<https://www.thehindu.com/opinion/editorial/crime-and-politics/article30668919.ece>

**Sep 09, 2020 –**

More Than 2,500 Sitting MLAs and MPs Face Criminal Cases, Supreme Court Informed.

A submission made by the amicus curiae in a case seeking speedy disposal of cases against elected representatives revealed some startling information.

Read More on:

<https://thewire.in/law/sitting-mlas-mps-criminal-cases-data-supreme-court-criminalisation-politics>