Head: RTI Unveils the True Fibre of DUSU Elections

The famous expression ‘*Ignorantia juris non excusat*’meaningIgnorance of law is no excuse) holds a high echelon among Latin maxims. But it is doubtful whether the abominable eyesore created by political parties, defacing public walls is merely an ignorance of law or a deliberate act showing their blithe disregard to laws, a careless attitude oblivious to the nuisance they create or the assumption of enjoyment of impunity. Whatever it is, and we presume, it’s a blend of them all, political parties are hell-bent to leave no stone unturned to ensure their candidate wins, whatever election it is.

This was apparently clear when a year ago, the Aam Aadmi Party rose to file a writ petition in the Delhi High Court. When defacement of public property was restricted by legislation, the party, in the *Anil Bhatia v. Govt. of NCT of Delhi* desperately sought declaration that The Delhi Prevention of Defacement of Property Act, 2007 does not prohibit putting up of poster/banners, on one’s own private property or house/building or with the consent of the owner of a private property or house/building, impugning the said act as being unconstitutional and violative of Article 19 (1) (a) of the Constitution of India. It shouldn’t come as a surprise that the Hon’ble Court didn’t hold for the petitioners, holding that the expression ‘public space’ in Section 7 of the said act, has to be read as a space open to public view. Taking note of the gravity of the issue, the Court in para 31 of the judgment made an explicit remark, saying, “*We are of the opinion that the social and public interest in regulating putting up of posters/banners/boards, even if on one's own property but visible to others and thus in maintaining public order is greater than the right of candidates contesting elections and their supporters to canvass and propagate their views and we find the restrictions placed by the impugned law to be “in the interest of” public order and decency and to be reasonable.*” It appears as though the Apex Court’s judgment of 1996 in the case of *Chameli Singh v. State of U.P.* [(1996) 2 S.C.C. 549]has become for political parties too old to be paid any heed to wherein the S.C. held that “in any organized society, right to live as a human being is not ensured by meeting only the animal needs of man but is secured only when he is assured of all facilities to develop himself, including a decent environment/surroundings.”

Mention must be made that The Delhi Prevention of Defacement of Property Act, 2007, is the prime legislation that provides for the prevention of defacement of property in the NCT of Delhi. It prescribes a punishment of imprisonment for a maximum term of one year, or a maximum fine of fifty thousand rupees or both (Section 3 (1) of the Act) and makes the offence of defacement of property cognizable (Section 5).

On the one hand where 81-year old Retired Col. Shivraj Kumar, the banner-carrier of the ‘Poster-Hatao Campaign’ wanders along with his wife, through the streets of Delhi taking down posters that mar the beauty of public walls, youngsters of the Delhi University hold an unwavering stance to undo the same.

In the Delhi University Students Union elections that were to be held in September last year, what came to surface was the proclivity of students to flout the laws keeping the elections second to nothing. Despite the strict laws that are placed to prevent such maneuvers, posters of student leaders could be seen on public property, defacing the same to grotesque levels. Flyovers, over-bridges, walls, you name it, they had it.

In an RTI filed by Transparency International India, the true numbers of the FIRs filed in various districts were brought to light. And these numbers, *inter alia*, are symptomatic of two things – First, the surging gravity of the DUSU elections; Second, the unflinching determination of the candidates to do ‘anything’ to try and win the same.

The breakdown of the FIRs filed in various districts till December 31, 2015 is as follows:

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| District | Number of FIRs Filed |
| New Delhi (District) | 6 (The details of one case in Chanakyapuri could not be provided because of its sensitive nature.) |
| West District | 145 |
| Central District | 23 |
| South District | 52 |
| Total | 226 |

This data only speaks of the cases registered in these four districts, as information was not received from other districts.

It must be borne in mind that DU does not recognize political affiliation of the contestants for different posts of DUSU, but in practice almost all political parties back a set of candidates for these posts. Also, note must be taken the large-scale defacement was carried out by the DUSU election-candidates despite an appeal to all the political parties for smooth conduct of the DUSU elections, which was made by the Office of the Chief Election Officer, University of Delhi on August 14, 2015. Prof. D. S. Rawat, the Chief Election Officer, DU requested the candidates to not use printed posters, deface public property and take out processions without explicit permission of the Election Officers. He also requested saying, “I also take this opportunity to seek your help in not issuing posters and other publicity material in the name of your party/organization or its youth wing till the time the results for the DUSU elections 2015 are declared. This will act as a deterrent and will help us to conduct the DUSU election properly.’ But to no surprise, the request was of no avail.

This was not the first instance of major damage to property of this nature. Few months before the DUSU elections, in the agitation of Jats for reservations, Haryana had seen defacement to its property of a similar scale.