

## SACKING BY SUBTERFUGE: ON REMOVAL OF AP TOP ELECTION OFFICIAL

### Removal Of A.P.'S Top Election Official Through Ordinance Route Is A Case Of Abuse Of Power

The legality of the removal of the Andhra Pradesh State Election Commissioner (SEC) is seriously in doubt. That it was the culmination of an open conflict between the Election Commissioner, N. Ramesh Kumar, and Chief Minister Y.S. Jagan Mohan Reddy makes it a glaring instance of misuse of power. The State government got the Governor to issue an ordinance to cut the SEC's tenure from five to three years, and amend the criterion for holding that office from being an officer of the rank of Principal Secretary and above to one who had served as a High Court judge. This automatically rendered Mr. Kumar's continuance invalid. Last month, just days before the local body polls were to be held, the SEC postponed the elections, citing the COVID-19 outbreak. The State government approached the Supreme Court, but the court declined to interfere. Having exhausted its legal remedy, the government should have waited for the ongoing fight against the disease to be over. Mr. Reddy's allegation that the SEC, an appointee of his predecessor N. Chandrababu Naidu, postponed the polls to prevent a sweep by the YSR Congress may or may not be true. However, the Chief Minister has no legal right to terminate the SEC's tenure, as the Constitution makes the holder of that post removable only in the same manner as a High Court judge. If courts uphold this means of dislodging the head of an independent election body, it would mark the end of free and fair elections.

The State government seems to have gone by legal opinion that cited *Aparmita Prasad Singh vs. State of U.P.* (2007) in which the Allahabad High Court ruled that cessation of tenure does not amount to removal, and upheld the State Election Commissioner's term being cut short. The Supreme Court, while dismissing an appeal against the order, kept open the legal questions arising from the case. The judgment seems erroneous, as it gives a *carte blanche* to the State government to remove an inconvenient election authority by merely changing the tenure or retirement age. This was surely not what was envisioned by Parliament, which wrote into the Constitution provisions to safeguard the independence of the State Election Commission. It is a well-settled principle in law that what cannot be done directly cannot be done indirectly. Therefore, the removal of an incumbent SEC through the subterfuge of changing the eligibility norms for appointment may not survive judicial scrutiny. Further, the Constitution, under Article 243K, prohibits the variation of any condition of service to the detriment of any incumbent. Even if the State government argues that a change of tenure does not amount to varying the conditions of service, the new norm can only apply to the successor SEC, and not the one holding the office now.

#### Meanings of Difficult Words:

1. **sack** (verb) – remove, dismiss, discharge, lay off (from the office/job).
2. **subterfuge** (noun) – deception, trickery, tactic, cunning/cheating (action), intrigue.
3. **ordinance** (noun) – order, rule, act.
4. **legality** (noun) – lawfulness, legitimacy, validity, rightness.
5. **culmination** (noun) – finale/end, conclusion, termination.
6. **glaring** (adjective) – obvious, visible, apparent, flagrant, blatant.
7. **tenure** (noun) – incumbency, term of office, period in office.
8. **criterion** (noun) – basis, standard, norm. (criteria is the plural form of criterion).
9. **render** (verb) – deliver, hand down, bring in, give, announce (a verdict/judgement).
10. **COVID-19** (noun) – coronavirus disease 2019.
11. **outbreak** (noun) – sudden appearance/occurrence (of a disease); outburst, epidemic.

12. **exhaust** (verb) – waste, run through, deplete, squander, fritter away.
13. **remedy** (noun) – solution, answer, antidote/panacea.
14. **allegation** (noun) – charge, accusation, indictment.
15. **appointee** (noun) – one who is appointed to a job/position; representative, delegate, office holder.
16. **predecessor** (noun) – previous holder of the post; forerunner, precursor, antecedent.
17. **sweep** (noun) – winning all seats in (an election).
18. **uphold** (verb) – confirm, endorse/approve, vindicate/validate.
19. **means** (noun) – method, way, procedure.
20. **dislodge** (verb) – remove, displace, knock out, oust, unseat (from a position of authority).
21. **mark** (verb) – indicate, represent, signify, signalize.
22. **cessation** (noun) – suspension, stopping, halting/ceasing.
23. **amount to** (verb) – be regarded as, be equivalent/equal to, be tantamount to.
24. **cut short** (phrase) – to end or stop (something) before it is completed.
25. **erroneous** (adjective) – wrong, incorrect, inaccurate.
26. **carte blanche** (noun) – French phrase literally means “blank or white card/sheet/paper”; it refers to complete freedom/full permission to act as someone wants.
27. **merely** (adverb) – only, simply, just.
28. **envision** (verb) – imagine, visualize, intend, envisage.
29. **provision** (noun) – term, clause, requirement/condition.
30. **well-settled** (adjective) – firmly established, well established.
31. **incumbent** (adjective) – current, existing, present (in power).
32. **survive** (verb) – outlast, outlive, hold on/exist, get through.
33. **scrutiny** (noun) – observation, inspection, examination.
34. **detriment** (noun) – disadvantage, damage, loss.
35. **incumbent** (noun) – the current/present holder/occupant of an office.
36. **norm** (noun) – standard, rule, criterion.
37. **successor** (noun) – heir, next-in-line, descendant.

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## **GOOGLE, PAY: ON RE-USE OF NEWS CONTENT**

### **The French Template For The Search Engine Paying For Reuse Of News Holds Promise.**

Last week’s ruling by France’s competition regulator that Google must pay news publishers and agencies for re-use of their content marks a significant turn in what has been a see-saw battle between European regulators and publishers on the one hand and the tech giant on the other. How this ends and what this leads to could set the template for not just the news industry in France and Europe but also the rest of the world. For the time being, the ruling gives the beleaguered news industry in France a rare edge in its dealings with the tech giant. Over the last two decades, even as publishers across the world struggled to make a commercially meaningful transition to the digital world, Google became the primary gateway for readers. While this worked well for the readers and for Google, which as a result could build a mammoth advertising business, it never worked well enough for news publishers, notwithstanding the increase in traffic they experienced. Many publishers are, hence, now in a position where they can neither let go of their dependence on the tech giant nor make monetary sense from this arrangement. Also, individually, they are too small to

challenge Google's might. It is by recognising the skewed nature of this copyright marketplace that the European legislators amended rules in April last year — something which France then gave force to in July.

The genesis of the order by the French competition regulator was a complaint filed against Google by unions representing publishers. They charged Google with abusing its dominant position in response to the law, which seeks to create fairer grounds of negotiation. This it does by allowing for the possibility of publishers to be paid for article extracts picked up by aggregators. The complaint was that Google, on the grounds of complying with the new law, decided it would not display the extracts and other elements unless publishers authorise free usage. The regulator said it found that Google's practices "were likely to constitute an abuse of a dominant position, and caused serious and immediate harm to the press sector." It could be argued that the French case will do little to shake up the existing framework. Previous legislative attempts by other European Union constituents, such as Germany and Spain, to allow for such extracts to be monetised by publishers have proved counterproductive. For instance, Google ended up shutting down its news service in Spain. But the French attempt promises to end differently. That is because, built in in the regulator's order is a requirement that negotiations "effectively result in a proposal for remuneration from Google." Where will this go from here? Publishers across the world will be watching.

#### **Meanings of Difficult Words:**

1. **template** (noun) – model, pattern, example, blueprint.
2. **hold promise** (phrase) – to look likely to achieve success in the future; to have potential.
3. **see-saw battle** (noun) – a battle in which advantage/lead is changing rapidly & repeatedly between two contesting sides right up to the end.
4. **lead to** (verb) – cause, give rise to, result in, bring on.
5. **ruling** (noun) – judgement, decision/verdict, pronouncement, resolution.
6. **beleaguered** (adjective) – hard-pressed, troubled, suffering.
7. **edge** (noun) – advantage, lead, head start.
8. **mammoth** (adjective) – huge, massive, colossal.
9. **notwithstanding** (preposition) – in spite of, despite, regardless of that.
10. **let go** (phrase) – dismiss, relinquish, give up.
11. **dependence on** (noun) – reliance on, need for, confidence in.
12. **monetary** (adjective) – financial, money.
13. **make sense** (phrase) – be accepted, be practicable, be convincing.
14. **might** (noun) – strength, force, power.
15. **skewed** (adjective) – distorted, altered, changed; misrepresented, falsified.
16. **give force to** (phrase) – enforce, demand, insist on, pressurize.
17. **genesis** (noun) – origin/source, beginning, emergence.
18. **seek** (verb) – try, attempt, aim.
19. **ground** (noun) – reason, factor, basis.
20. **extract** (noun) – copy, take, abstract reproduce.
21. **pick up** (phrasal verb) – receive, get, collect.
22. **aggregator** (noun) – an organisation/website which collects materials (information) from various sources and then present them to its readers.
23. **on the ground** (phrase) – in a situation/place where things are happening really/practically.

24. **comply with** (verb) – abide by, adhere to, conform to.
25. **constitute** (verb) – form, comprise, represent.
26. **abuse** (noun) – injustice, wrongdoing, misconduct; misuse of something.
27. **shake up** (phrasal verb) – reorganize, restructure, revolutionize, transform/reform.
28. **framework** (noun) – structure, scheme, system, organisation.
29. **monetise** (verb) – earn money, generate revenue.
30. **counterproductive** (adjective) – undesirable, unfortunate, unfavourable; damaging, destructive.
31. **end up** (verb) – come/appear, find oneself (to a particular course of action in the end).
32. **shut down** (phrasal verb) – close down, cease operation/activity, discontinue.
33. **remuneration** (noun) – payment, earnings, wages.

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