

ABSTRACT

A CONSTITUTIONAL ANALYSIS OF THE RESTRICTIONS ON PREDICTIONS OF VOTERS PREFERENCES NY THE MEDIA

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'Exit Polls rest on unstable constitutional tectonic plates eager to erupt without notice. It has equal and opposite forces, pulling at it, as its proponent as well as opponent lie in the Constitution. Conduct of free and fair elections has been the focus of the Election Commission from its conception, but fulfilling its constitutional function reached a roadblock when the Apex Court held that it was overreaching its powers. Hence, the Parliament cleverly took over, and amended the Reservation of People's Act, 1951 to add Section 126A. The section imposes a complete ban on exit polls and makes it impossible to legitimately collect any data through the same. Exit polls reveal some unique information which may aid in the casting of an informed vote. An informed voter is a necessary pre-condition for a robust democracy, functioning of the principle of free and fair elections and thus to uphold the basic structure of our Constitution, exit polls or any other method of information extraction or dissemination is necessary.

Besides the above a complete ban on exit polls may well be challenged under Art. 19(1)(a); though, whether this freedom functions dually for the media as well as the citizen, shall be considered. Further, the paper analyses whether exit polls can be legally or logically read into any of the restrictions under 19(2) without 'statutise-ing' the Constitution, a document which lays down basic principles and not nuanced modalities. A modest effort has been made in this behalf to compare the forms of fundamental rights that may be used to protect exit polls, in India as well as America. The same, it is noted, is a reflection of the kind of freedom the press is guaranteed by their respective Grundnorms.

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