

THE DILEMMA OF ELECTORAL FREEBIES IN INDIA: A CONSTITUTIONAL AND LEGAL ANALYSIS

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Article Info	ABSTRACT
Article History: Received: 24th January 2026 Accepted: 01st February 2026 Published: 05th February 2026	As one of the largest constitutional democracies in the world, India offers a distinctive opportunity to examine how electoral practices interact with constitutional governance. The increasing reliance on electoral freebies in India has generated serious constitutional, legal, and fiscal concerns. Popularly described as “revdi culture,” the practice involves political parties promising or distributing material benefits to voters, often funded through public money, to secure electoral support. While welfare schemes form a legitimate part of India’s constitutional framework, the unregulated expansion of freebies raises questions about free and fair elections, misuse of public funds, and long-term economic sustainability. This paper critically examines electoral freebies through constitutional provisions, statutory frameworks, landmark judicial decisions, and institutional responses. It analyses the limitations of existing election laws, particularly the Representation of the People Act, 1951, the Model Code of Conduct, and the restricted powers of the Election Commission of India. The paper further explores the evolving judicial discourse, economic implications highlighted by expert institutions, and the urgent need for legal reform. It concludes by proposing a balanced framework that reconciles welfare objectives with fiscal discipline and constitutional accountability.
Keywords: <i>Constitutional Democracy, Electoral Freebies, Constitutional Morality, Free and Fair Elections, Fiscal Responsibility</i>	
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1. Introduction:

Electoral democracy in India has increasingly witnessed a trend where political competition is shaped by promises of free goods, subsidies, and cash transfers. These promises, commonly termed as “electoral freebies,” have become central to election campaigns across states and at the national level. The debate gained renewed attention when the Prime Minister publicly criticised what he described as “revdi culture,” sparking legal, political, and economic discussions across the country. This criticism coincided with judicial scrutiny in several Public Interest Litigations before the Supreme Court, most notably *Ashwini Kumar Upadhyay v Union of India*.¹

At its core, the freebies debate reflects a deeper constitutional tension. On one hand, the Indian Constitution envisions a welfare state committed to social and economic justice. On the other hand, unchecked populist promises risk undermining fiscal responsibility, electoral integrity, and constitutional governance. The absence of a clear legal framework to distinguish welfare schemes from electoral inducements has further complicated the issue.

This paper seeks to analyze the phenomenon of electoral freebies from a constitutional and legal perspective. It examines relevant constitutional provisions, statutory limitations, landmark case laws, institutional roles, and economic concerns. It further evaluates where the law is presently inadequate and proposes reforms to address the challenge without undermining democratic choice or welfare objectives.

2. Constitutional Framework Governing Public Expenditure and Elections:

The Constitution of India does not explicitly prohibit electoral freebies. However, several provisions provide the constitutional basis for scrutinising such practices-

Article 14 mandates equality before law and prohibits arbitrary state action. Selective or irrational distribution of public benefits for electoral gain may be challenged as arbitrary and discriminatory. Article 162 defines the extent of executive power of the State but subjects it to constitutional and legislative limitations, thereby restricting arbitrary fiscal decisions.²

Article 266(3) provides that money from the Consolidated Fund of India or a State shall be appropriated only in accordance with law. Expenditure on freebies without clear legislative sanction or public purpose raises concerns regarding misuse of public funds. Article 282 permits the Union and States to make grants for any public purpose, even if the purpose falls outside their legislative competence. The ambiguity surrounding the term “public purpose” lies at the heart of the freebies debate.³

The Directive Principles of State Policy, particularly Articles 38 and 39, require the State to promote social welfare and reduce inequality. However, these principles are to be harmonised with fiscal prudence and constitutional morality. Welfare, therefore, must empower citizens rather than create dependency.⁴

3. Statutory and Regulatory Framework:

¹ *Ashwini Kumar Upadhyay v. Union of India*, W.P.(C) No. 43/2022

² INDIA CONST. arts. 14, 162.

³ INDIA CONST. arts. 266(3), 282.

⁴ INDIA CONST. arts. 38, 39.

3.1 Representation of the People Act, 1951 (RPA):

The Representation of the People Act, 1951 is the principal legislation governing electoral conduct in India and aims to ensure free and fair elections by defining and penalising corrupt practices. (3) **Section 123**⁵ of the Act identifies practices such as bribery, undue influence, and appeals on prohibited grounds. These provisions are reinforced by **Sections 193 and 194 of the Bhartiya Nyaya Sanhita, 2023**, which criminalize bribery and undue influence in elections. However, a significant limitation of the RPA is its failure to regulate pre-poll promises made through election manifestos. In *Subramaniam Balaji v State of Tamil Nadu*,⁶ the Supreme Court clarified that general manifesto promises, even if financially burdensome, do not amount to bribery unless accompanied by a direct and individualized quid pro quo, thereby insulating political parties from legal liability.

3.2 Bhartiya Nyaya Sanhita, 2023:

Sections **193 and 194**⁷ are frequently invoked in challenges to electoral freebies. However, judicial interpretation has consistently held that general promises made to the electorate at large do not constitute bribery or undue influence, limiting the practical applicability of these provisions.

3.3 Model Code of Conduct (MCC):

The Model Code of Conduct, issued by the Election Commission of India, regulates political behaviour during elections by restricting misuse of public funds and policy announcements. Its non-statutory nature, however, renders it legally unenforceable.

3.4 Election Commission Guidelines on Election Manifestos (2015):

Issued pursuant to judicial directions in *Subramaniam Balaji*, these guidelines require disclosure of financial implications and funding sources of manifesto promises. Nevertheless, they remain advisory due to the absence of enforcement and punitive mechanisms.

4. Judicial Engagement and Case Law:

4.1 Subramaniam Balaji v State of Tamil Nadu (2013)⁸:

This precedent affirmed that manifesto promises do not, by themselves, amount to corrupt practices under Section 123 of the RPA⁹, as voters retain discretion and promises are not legally enforceable. The judgment directed the ECI to frame guidelines on manifesto content.

4.2 Current Pleas and the “Freebie” Debate:

Recent petitions, including those by Ashwini Kumar Upadhyay¹⁰ and others, argue that promises or distribution of irrational freebies violate constitutional mandates by influencing voters, disturbing level playing fields, and involving public funds for non-public purposes. They assert that these actions violate

⁵ The Representation of the People Act, 1951 (Act No. 43 of 1951) (India) **Sec 123**,

⁶ *S. Subramaniam Balaji v. Government of Tamil Nadu*, (2013) 9 SCC 659 (India)

⁷ *The Bharatiya Nyaya Sanhita, 2023 (Act No. 45 of 2023) (India)* Sec. 193 & 194

⁸ *Ibid* 6

⁹ Representation of the People Act, 1951, (Act No. 43 of 1951) (India) Sec 123

¹⁰ *Ashwini Kumar Upadhyay v. Union of India*, W.P.(C) No. 43/2022

Articles 14, 162, 266(3), and 282,¹¹ and are analogous to bribery and undue influence under Sections 193 and 194 of the BNS 2023.¹²

4.3 Manohar Lal Sharma v Union of India¹³:

In this case, the Supreme Court reaffirmed the **public trust doctrine**, holding that public resources are held by the State in trust for the people and cannot be distributed arbitrarily. Applying this doctrine to electoral freebies implies that public funds cannot be deployed merely for political advantage, as such distribution must satisfy standards of fairness, transparency, and public interest.

4.4 PUCL v Union of India¹⁴:

In *this case* the Court recognised the voter's right to information as a facet of Article 19(1)(a).¹⁵ Extending this principle, voters have a constitutional right to know the fiscal implications of electoral promises. Non-disclosure of costs associated with freebies undermines informed voting and democratic choice.

4.5 Emerging Judicial Views:

Beyond election law, Supreme Court commentary in unrelated contexts has lamented the disruptive socio-economic effects of freebies, suggesting a broader judicial concern about long-term dependency and erosion of civic engagement.

5. The Debate over Election Freebies:

Electoral freebies in India generate a complex debate between genuine welfare and political populism. Scholars describe the "freebie doctrine" as a tension between welfare initiatives and inducements that may undermine electoral integrity. Proponents argue that targeted schemes, such as free electricity, water, or health services, advance social justice and align with **Directive Principles of State Policy (Arts. 38, 39, 41)**.¹⁶ Critics contend that promises made to secure votes are transactional, short-term, and strain state finances, reducing funds for essential services and developmental infrastructure. Academic research shows that such practices have expanded since the 1980s, widening fiscal pressures and governance deficits. The Supreme Court in *S. Subramaniam Balaji v. State of Tamil Nadu*¹⁷ emphasised that while welfare is constitutional, extravagant or non-essential freebies may constitute misuse of public funds, highlighting the need for clear regulatory standards distinguishing welfare from populist inducements.

6. Institutional Limitations and Need for Reform:

The regulation of electoral freebies in India is constrained by significant institutional and legal gaps. The

¹¹ INDIAN CONSTI. Arts. 14, 162, 266(3), 282

¹² Bhartiya Nyaya Sanhita 2023 (Act No. 45 of 2023) (India) Sec 193 & 194

¹³ *Manohar Lal Sharma v. Union of India*, (2022) 11 SCC 123 (India)

¹⁴ *People's Union for Civil Liberties v. Union of India*, (2003) 12 SCC 399 (India)

¹⁵ INDIAN CONSTI. Art. 19(1)(a)

¹⁶ DPSP Art. 38 – Directs the State to secure a social order for the promotion of welfare of people, Art. 39 – Directs the State to ensure citizens have adequate means of livelihood, equal pay for equal work, and that resources are distributed fairly, Art. 41 – Directs the State to provide public assistance in cases of unemployment, old age, sickness, and disablement.

¹⁷ *S. Subramaniam Balaji v. Government of Tamil Nadu*, (2013) 9 SCC 659 (India)

Election Commission of India (ECI), while responsible for enforcing the Model Code of Conduct, lacks statutory authority to monitor or penalise pre-poll manifesto promises, leaving parties free to announce financially burdensome schemes without accountability.¹⁸ Similarly, the **Representation of the People Act, 1951** and related IPC provisions address bribery and undue influence only in cases of direct quid pro quo, failing to regulate broad electoral promises. Advisory mechanisms, such as the **ECI's 2015 guidelines on manifestos**, require disclosure of funding and fiscal impact but are non-enforceable. Experts argue for statutory reform to define "freebies," mandate fiscal transparency in manifestos, and establish an independent review body, potentially including the **CAG, Finance Commission, and law experts**, to assess pre-election promises. Such reforms would balance legitimate welfare objectives with fiscal prudence and protect electoral integrity.

7. Conclusion:

Electoral freebies represent a complex challenge to Indian constitutional democracy. While the state must pursue welfare objectives, the strategic use of public funds to secure electoral support raises legitimate concerns about inequality, fiscal sustainability, and electoral fairness. The current constitutional framework, statutory law, and institutional mechanisms provide some guardrails, but they lack precision and enforcement power. Judicial engagement has highlighted the issue, yet meaningful reform will require legislative clarity, greater fiscal transparency, and institutional coordination. Ultimately, balancing the welfare state's obligations with safeguards against electoral distortion is essential to uphold both democratic integrity and constitutional morality in India.

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¹⁸ Representation of the People Act, 1951, (Act No. 43 of 1951) (India)