

PM and President's photos in govt advertisements

August 9, 2022

Manifest Pedagogy:

In an opposition-ruled state such as Tamil Nadu, exclusion of the PM's photos is seen as a political move. However, the state governments should ensure that whenever any international event is hosted in the States, the directive issued by the Supreme Court is followed by including the names of the dignitaries.

In News: The Madras High Court recently directed the Tamil Nadu government to include the photographs of the President of India and Prime Minister Narendra Modi in advertisements on the 44th Chess Olympiad underway in Chennai. The HC relied on a 2015 Supreme Court ruling that issued guidelines on government spending on advertisements.

Placing it in Syllabus: Polity and Governance

Static Dimensions

- Supreme Court ruling of 2015

Current Dimensions

- Committee suggestion regarding the matter
- The Supreme Court ruling
- About photographs in advertisements
- Takeaways from the SC and HC verdicts

Content

Supreme Court ruling of 2015

- In **Common Cause v Union of India**, the Supreme Court sought to regulate the way the government spends on

advertisements.

- It essentially regulated the 2007 New Advertisement Policy of the Government of India.
- The petitioners had argued that there is arbitrary spending on advertisements by the government.
 - The allegations ranged from wastage of public money for political mileage to using advertisements as a tool to manipulate media.

Court Ruling-

- The court said that the primary cause of government advertisement is to use public funds to inform the public of their rights, obligations, and entitlements as well as to explain Government policies, programs, services and initiatives. However, when these requisites are not fulfilled in a government advertisement then the whole purpose would be frustrated.
- Patronization of any particular media house(s) must be avoided and award of advertisements must be on an equal basis to all newspapers who may, however, be categorised depending upon their circulation.
- The **DAVP (Directorate of Advertising and Visual Publicity)** guidelines do not deal with the said aspect of the matter and hence the necessity of incorporating the same in the present directions to ensure the independence, impartiality and the neutrality of the fourth estate (media) which is vital to the growth and sustenance of democracy will have to be weighed and considered by us.

Committee's suggestion regarding the matter

The three-member committee comprising Prof N R Madhava Menon, former Director, National Judicial Academy, Bhopal; T K Viswanathan, former Secretary General, Lok Sabha, and senior advocate Ranjit Kumar suggested a fresh policy, the Government Advertisements (Content Regulation) Guidelines 2014

with **five broad principles:**

- Advertising campaigns are to be related to government responsibilities.
- Materials should be presented in an objective, fair manner and designed to meet objectives of the campaign.
- Advertisements must not be directed at promoting political interests of a party.
- Campaigns must be justified and undertaken in a cost-effective manner.
- Advertisements must comply with legal requirements and financial regulations.

The Supreme Court ruling

- It largely accepted the committee report except on a few issues.
- The appointment of an ombudsman to oversee the implementation of the guidelines, a special performance audit of government spending, and an embargo on publication of advertisements on the eve of elections.
- The **ruling mandated that government advertisements will not contain a political party's symbol, logo or flag and are required to be politically neutral and must refrain from glorifying political personalities.**

About photographs in advertisements

- The **Supreme Court agreed with the committee's suggestion that photographs of leaders should be avoided and only the photographs of the President/ Prime Minister or Governor/ Chief Minister shall be used** for effective government messaging.
- Then Attorney General Mukul Rohatgi had opposed the recommendation arguing that if the PM's photograph is allowed in the advertisement, then the same right should be available to his cabinet colleagues as the PM is the "first among the equals".

- The court, while restricting the recommendation to the photos of the President and Prime Minister, added the **photograph of the Chief Justice of India** to that list of exceptions.
- In 2018, the Centre and states including Karnataka, West Bengal, Assam, Tamil Nadu, Uttar Pradesh, Odisha and Chattisgarh sought a review of the verdict on the ground that not permitting the publication of the CM's photograph would violate the federal structure.
 - An SC Bench comprising Justices Gogoi and P C Ghose relaxed the bar, **allowing pictures of Union ministers, Chief Ministers, Governors and State ministers in government advertisements.**

Takeaways from the SC and HC verdicts

- The SC ruling stepped into content regulation, which is a facet of the right to freedom of speech and expression, and was also in the domain of making policy.
 - This raised questions on the judiciary stepping on the executive's domain.
- The SC ruling did not mandate publication of the photograph of the PM and President, but only restricted publication of photos of government officials other than the President, PM, CJI, CM and the Governor.

Issues related with the matter

- Only the President, Prime Minister and Chief Justice of India's (CJI) photographs in government advertisements, in a federal polity is not acceptable as the position of Chief Ministers or Union Ministers is in no way less than that of the PM.
- Right to give information and the right to receive information under Constitution's article 19(1)(a) could only be restricted by a law framed under article 19(2), Attorney General Mukul Rohatgi told the bench of the SC

that the **rights under article 19(1)(a) could not be restricted by a judicial order.**

- Issuing advertisements aimed to promote the CMs and for political messaging.
- Advertisements are prone to be misused.

Way Forward

- The fact that any law or policy is capable of being misused, does not make the law or policy bad.
- The image of the nation should be of foremost concern to everyone and such representation, obviously, would be under the aegis of the President and Prime Minister of India.
- Advertisements must be for the larger interest of the citizens and not to further any party's narrow interest.
- Advertisements must be related to government responsibilities and issued in public interest.
- There must be an impartial scrutiny to ensure the advertisements are in line with broad principles laid down in **Government Advertisements (Content Regulation) Guidelines 2014** .

Mould your thoughts

1. Using photographs of the PM and President in government advertisements is a sticking point between the Centre and States threatening the federal spirit. Critically analyse the statement in light of the recent order given by Madras High Court. (250 words)

Approach to the answer

- Introduction about the issue.
- States opposition to use photos of PM and President
- SC court verdict about the matter and 2014 government advertisement guidelines.
- Issue with the recent HC verdict
- Way Forward (committee recommendation) and Conclusion