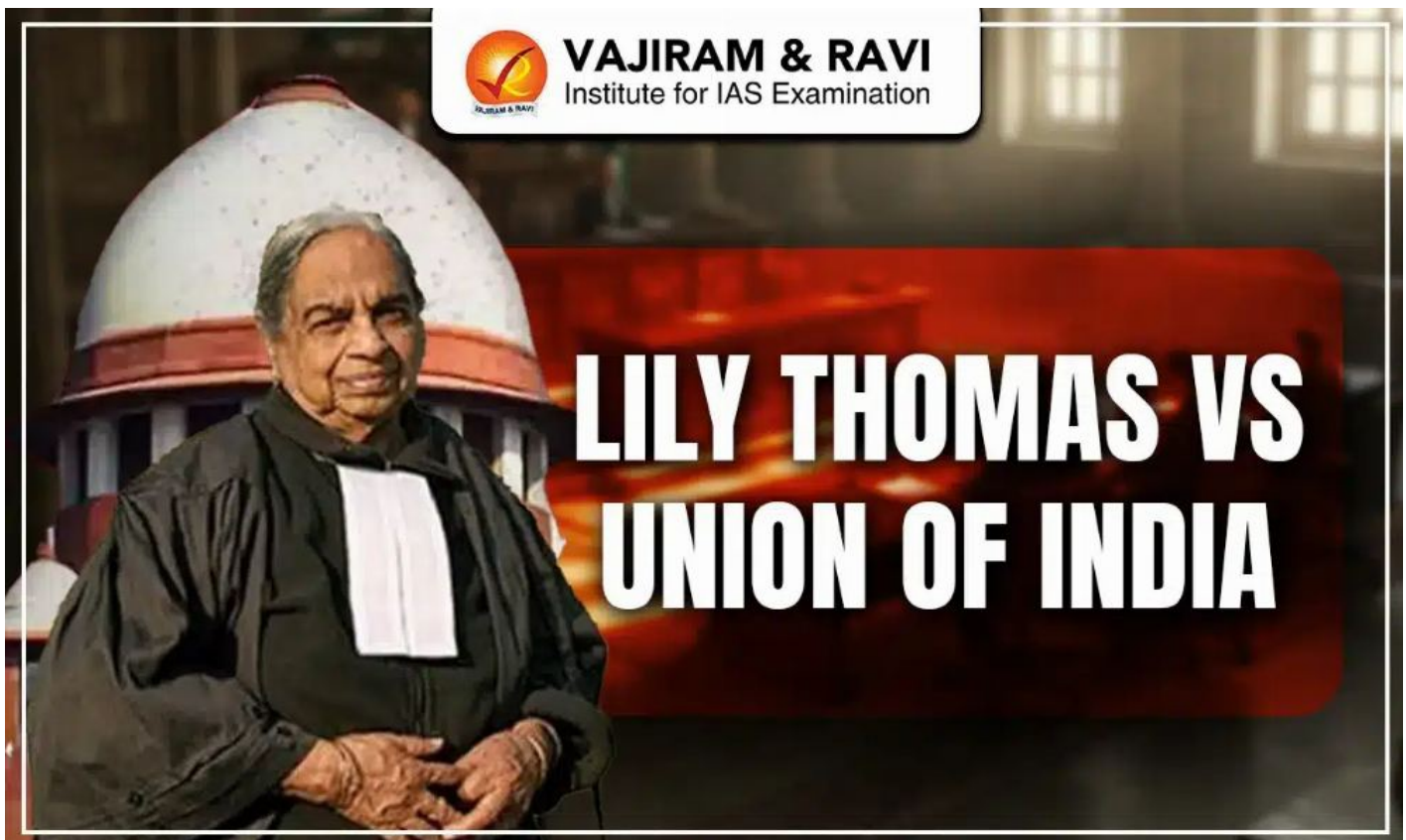


Lily Thomas vs Union of India 2013, Background, SC Judgement

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Lily Thomas vs Union of India (2013) is a landmark judgment that transformed the legal framework governing the disqualification of elected representatives in India. The case is widely discussed in the context of electoral reforms because it directly addressed whether convicted legislators should continue to hold office.

The Supreme Court's ruling in this case strengthened democratic accountability and brought clarity to the provisions of the Representation of the People Act, 1951.

Lily Thomas vs Union of India Background

The case was filed by advocate Lily Thomas and NGO Lok Prahari challenging the constitutional validity of Section 8(4) of the Representation of the People Act (RPA), 1951. This provision allowed sitting MPs and MLAs to retain their seats even after being convicted of certain criminal offences, provided they filed an appeal within three months.

- Section 8 of the RPA outlines offences that lead to disqualification.

- Section 8(4) carved out an exception for sitting legislators, giving them immunity from immediate disqualification.
- Petitioners argued that this was discriminatory because ordinary citizens faced immediate consequences, while elected representatives enjoyed special protection.
- The case questioned whether Parliament had the authority to postpone the disqualification of convicted legislators.
- The matter raised concerns about electoral integrity and the criminalisation of politics.

Supreme Court Judgement on Lily Thomas vs Union of India

The Supreme Court delivered its judgment on 10 July 2013, striking down Section 8(4) of the RPA, 1951 as unconstitutional.

- The Court held that Parliament cannot defer the date of disqualification of a convicted representative through legislation.
- Once convicted for offences listed under Section 8(1), 8(2), or 8(3), the MP or MLA stands immediately disqualified.
- The Court clarified that Articles 101(3)(a) and 190(3)(a) of the Constitution provide for disqualification from the date of conviction.
- The exception created for sitting legislators under Section 8(4) was held to violate the principle of equality.
- The judgment emphasized the need for maintaining the purity of the legislative process.

Disqualification of MPs and MLAs under RPA, 1951

- **Section 8(3) of the Representation of the People Act, 1951** mandates that any MP or MLA convicted of an offence and sentenced to **two years or more of imprisonment** is automatically disqualified.
- The disqualification under Section 8(3) continues for the **entire duration of imprisonment** and further extends for **six additional years after the individual's release**.
- After such a conviction, the individual **cannot contest elections**, hold legislative office, or continue as a sitting representative.
- Even if the convicted individual is out on **bail**, the disqualification remains effective as long as the conviction stands.
- Candidates who have filed an appeal against their conviction and are on bail are **still ineligible to contest elections** unless a court specifically **stays the conviction**, not just the sentence.
- Before 2013, **Section 8(4)** created an exception for sitting MPs and MLAs, allowing them to **continue in office** if they filed an appeal against their conviction **within three months**.
- This provision provided a **legal shield** to elected representatives, preventing immediate disqualification and creating an unequal advantage over ordinary citizens.

Representation of the People Act, 1951

The Representation of the People Act, 1951 lays down the legal framework for conducting elections to Parliament and state legislatures in India. It defines the qualifications, disqualifications, and procedures governing elected

representatives.

- Provides the **rules and procedures** for conducting elections to **Lok Sabha** and state assemblies.
- Defines **qualifications and disqualifications** for candidates and elected members.
- Regulates **corrupt practices**, electoral offences, and penalties.
- Lays down the **framework for election petitions** and resolution of electoral disputes.
- Empowers the Election Commission to ensure **fair conduct of elections**.
- Includes provisions relating to **vacancies, by-elections**, and conduct of polls.
- Contains mechanisms to address **malpractices** such as bribery, intimidation, and misuse of official machinery.
- Provides for **maintenance of electoral rolls** and registration of voters.

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